National Consultation on

Medico-Legal Issues Related to Female Foeticide

A Report

Organised by

The Centre for Child and the Law

National Law School of India University

Bangalore

With the support of

UNICEF, India Country Office, New Delhi

1999

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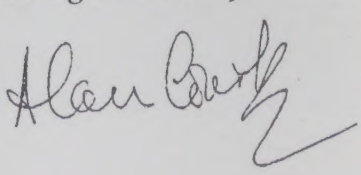
The issue of female foeticide and infanticide has assumed a very critical place in all discussions relating to Child Rights. It strikes at the root of Child Rights - the right to be born and to survive. The very existence of girl children is being threatened as never before. The Indian Medical Association has provided leadership by bringing this debate on to the centre stage. The considerable coverage and support provided by the media is an indication of what a positive role a well informed media can play. The Centre for Child and the Law is carrying this debate forward by convening this meeting of activists, doctors and lawyers to debate about essential legal reforms and implementation strategies. I am sure that many valuable suggestions will emerge from this meeting.

In the next phase, the most important activity will be convincing political leadership of the consequences of this disturbing trend of falling sex ratios and the disastrous impact it will have in society due to the reduced number of women. The kind of violence that is happening against women is already indicative of a trend which will only increase the vulnerability of women. The real solution therefore lies in bringing about a change in the status of women. The challenge is to change mindsets about women, bring in new role models for women and work towards a new male identity which will learn how to share and care equally. It will have to be the combined efforts of lawyers, medical practitioners, bureaucrats, NGOs and civil society. We in UNICEF are happy to partner this meeting and look forward to participating in continued action.



Introduction

Prof. Babu Mathew

In the context of social problems, the usefulness of law needs to be closely examined. It is often found that laws by themselves have very little impact. However, when there is a social movement to get the law to work, the law very often gets implemented. Thus, pressures to implement law need to be raised and exerted. This has been seen with respect to the labour laws. Wherever there is an active trade union, the labour laws are being followed, but they remain a dead letter where the trade union movement is absent. Similarly, with respect to the land reform legislation, due to the peasant movement in Kerala, the law was put into action, but remained ineffective in the other States where such pressure from below was lacking. The implementation of law is also conditioned by several actors. With respect to the issue of female infanticide and foeticide, among others, the medical, the social and the legal streams will have to converge in order to influence the issue. This meeting seeks to foster an inter-disciplinary interaction between the medical professionals, the legal professionals and social scientists and social activists with an objective of understanding the areas where law on female foeticide needs to be reformed or strengthened through better implementation. Through this interaction, one hopes to sharpen the legal tools with inputs from the field realities. This interaction also needs to be continuous and dynamic to facilitate better reflection and action on the problem.

Implementation of Law: Ground Realities

Dr. Sabu George

While recognising the importance of transforming the patriarchal practices and beliefs that prevail in our society, Dr. Sabu George stressed on the need to highlight the obligation of the medical profession in fostering ethical medical practice. The concerns which he raised were an outcome of eighteen months of engagement with the existing law and through a constant dialogue with social activists and lawyers working on this issue.

History of Sex Determination in India: Dr. Sabu George presented a brief history of prenatal sex determination.

1974 An eminent medical scientist from AIIMS advocated abuse of amniocentesis for female foeticide

1979 Ban on sex determination in government institutions. Emergence of private clinics performing sex determination tests and procedures

1988 Enactment of the Maharashtra Regulation of Pre-Natal Diagnostic Techniques Act

1994 Enactment of the central Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act (PNDT Act) on September 20, 1994

Need to implement the existing law: He mentioned that without struggling with implementation of existing law, one will not be in a position to understand its weaknesses and limitations. It is also important to note that we cannot have a 'perfect' law nor can we wait to enforce the 'perfect law' even if it is ultimately enacted.

Role of the Medical Profession: Dr. Sabu George stated that it is important to interact with the medical profession all the time. The greatest priority today in the area of female foeticide is for the doctors to work within their own profession. Ethical medical practice is imperative for an effective implementation of the

PNDT Act. He said that it is easy to locate problems outside our own professions and in the realm of law. However, laws take years to be enacted and enforced. Therefore it is important to work within the medical profession and evolve measures to ensure accountability and honesty before law.

Poor Enforcement of Law and Spread of Sex Determination Clinics: Dr. Sabu George also brought out the gross indifference to the implementation of the law. He asserted that both the Union and State Governments had not really enforced the law. Although there are more than 20,000 ultrasound machines in the country, only a few are registered. The authorities responsible for the implementation of the law and for making sure that all the genetic clinics/laboratories/centres are registered are not taking any action in terms of either enforcing compulsory registration or taking penal action against unregistered clinics/laboratories/centres. People's action is lacking and even women's organisations and activists have been generally indifferent to this issue. Hence the clinics continue to spread everywhere despite the law. The first private clinic was set up in Amritsar in 1979. This trend later spread to cities of Northern and Western India. This has adversely influenced the sex-ratio in certain parts of the country. In Punjab, the under-five sex ratio reduced from 925 to 874 females per 1000 males between 1981 and 1991. In the Southern parts of India, the private clinics performing sex determination tests came about only 10 years after they had proliferated in the Northern and Western India. In the early '80s, attention was being given to the issue of female infanticide, but the activists had not anticipated the problem of female foeticide. Although the spread of this problem has been initially slower, most taluks even in the backward parts of Karnataka and Andhra Pradesh have sex determination clinics.

Challenges before the medical professionals: Dr. Sabu George stated that unfortunately very little ethics remain in the medical profession (both practice and curriculum) as a whole and there is a virtual absence of Obstetric Ethics. The minimal discussion of ethics in Obstetrics and Gynaecology has been limited to the

use of unnecessary procedures. In this context, it may seem like an unrealistic expectation to have Specialty Ethics practiced in the country. The question is: how do we enforce ethics in the medical profession?

There is also an indifference to gender issues among the medical technologists and scientists. Dr. Sabu George referred to the editorial of the Journal of Indian Medical Association of June 1998 on New Reproductive Technologies. He pointed out that there was not a word on abuse of the new technologies for sex selection.

There is also an excessive medicalisation of normal pregnancies in India. In the West, there are guidelines on the use of ultrasonography. In India, however, there are variations in these guidelines for normal pregnancy itself. There is a wide variation among ethical obstetricians about the use of ultrasonography during normal pregnancy. There is no consensus on how many ultrasonography tests are required and at what gestational ages. In addition, there is no study which can indicate that ultrasonography is helpful to improve pregnancy diagnostics.

Medical Profession and Implementation of the Law: Last year, the Kerala Chapter of the Indian Medical Association (IMA) fixed fees for various scans to prevent doctors from taking unethical commissions. This also required certification of centres by the Kerala IMA (KIMA). Some owners of these centres went to the High Court. In August, the High Court vacated the stay and dismissed case. The order said, "The Court could not doubt the bonafide decision taken by the KIMA Ethics Committee". After the KIMA directive, there had been a reduction in scans. It is important to note that in this case, 40% of owners of these scan centres are themselves doctors. It is important that the IMA seriously looks into this initiative and emulates the Kerala IMA's drive for certification of the scan clinics. Dr. Sabu George mentioned that there is a benefit of struggling with the implementation of existing law. In Punjab, a petition was filed against the advertisements promoting sex determination tests. After this, the advertisements stopped from appearing before the public.

Law and Ethics: The domain of ethics is much larger than law. But it is enough to have the law say that a particular practice is bad or wrong. The ethical point of view may be controversial but sex selection is unethical universally. Pre-conception sex planning is not covered under the present Act. But it is a matter of interpretation and therefore it is important to address the question on who should interpret the law? It is encouraging to see that in Delhi a law which bans the separation of X and Y chromosomes from the sperms during insemination is passed recently.

Actions of Hope: Recently, certain actions have infused hope. The launching of the Tamil Nadu Campaign Against Sex Selective Abortion in December 1998 is encouraging. The recognition of the problem by the Indian Medical Association in August 1999 (wherein it took a stand on the problem of female foeticide after 25 years) is also a positive step forward. Dr. Sabu George expressed his hope that the IMA would have the same enthusiasm to fight female foeticide like it fought the Consumer Protection Act. He also recommended that the IMA notify its members to comply with the female foeticide laws, by registering their clinics and abiding by the other provisions of the law.

Ms. Phavalam

The Society for Integrated Rural Development has been working for the last 20 years on the issue of female infanticide. Since December 1998, it has also been prime moving the Tamil Nadu based Campaign Against Sex Selective Abortion.

Is law the solution to the issue of female foeticide? After years of working at the grassroots level, Ms. Phavalam expressed their collective doubts about the usefulness of law in dealing with the problem of female foeticide. Experience of laws on women also indicates that laws are ineffective in addressing social issues because laws do not address social values and norms. The problem of female foeticide is a socio-cultural, economic and political issue. In this case, although law cannot attack the social structure, it is a tool to deal with sex determination. It also helps

in creating an enabling environment. Ms. Phavalam stressed the need to address the social structure. She said that a positive supportive environment for women is required if one has to tackle the problem of female foeticide. The issue of decline in sex ratio of women cannot be addressed unless there is an improvement in the implementation of the laws for women. We also have to enhance the status of women, support women in employment and education. This has been the basic understanding of their campaign against sex determination.

Campaign Against Sex-Selective Abortion: The campaign recognises the right of a woman over her body. It is not a campaign against abortion but it considers sex determination test as a basic violation of rights. Women's rights are human rights similar to children's rights. While the campaign is against the sex determination, it believes that the campaign should have specific strategies.

At present, there are forty four members in the campaign. The members are in the process of listing all the scanning centres spread across Tamil Nadu. It has been found that the spread is more rampant in Usilampatti, Salem, Dharmapuri and Thiruvannamalai. The campaign members also did a survey of the population between 0-5 years in order to understand the intensity of the problem of adverse sex ratio in the area of operation. It was found that in Usilampatti, the sex ratio is 879 females per 1000 males in the population of 0-5 years age group. The campaign is presently planning to conduct a study to understand various factors that contribute to the issue. At the macro level, the campaign has been lobbying with the State Assembly. When the issue reached the Assembly, the State Government gave an advertisement in the newspapers that all genetic centres/clinics/ laboratories should be registered as per the PNDT Act.

CAMPAIGN AGAINST SEX SELECTIVE ABORTION, TAMIL NADU

Campaign Against Sex Selective Abortion (CASSA) is a state level campaign body constituted by social action groups, women's unions, professionals from various fields who share the vision and perspectives of CASSA.

Vision of CASSA: While CASSA aims at normalising the sex ratio and reduction of violence in society, it is aware that this cannot be achieved without incisive social transformation. Overcoming caste and class cleavages and gender discrimination is an integral part of the process. We also need to envisage alternative development strategies which are ecologically sustainable, non-violent and more labour than capital intensive.

Mission: CASSA's mission is to evolve strategies for preventing the declining sex ratio and to protect and promote the reproductive rights of the women through education, research and documentation, networking, advocacy and lobbying and facilitating grass-root initiatives.

Perspectives: While CASSA is located in the overall struggle for social change, it strongly believes that this campaign should have its own agenda and programmes in order to formulate specific strategies to eliminate gender violence by using the existing legislation and conventions at the national and international level. It recognises the right of all women to make decisions about their bodies and reproductive rights and fully upholds the rights of women under the Medical Termination of Pregnancy Act. This campaign is not a part of the campaign against abortion. The right to abortion will remain an essential right of women, a right to determine life, their body and fertility. It considers sex determination tests as basic human rights violation and a violation of the rights enshrined in the Constitution and the United Nations Convention on the Rights of the Child. The MTP Act should be understood together with the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994. Women's rights are human rights similar to children's rights. The campaign does not believe in treating laws that promote and protect human rights independent of each other.

Practical Realities of the PNDT Act: As part of an active campaign against sex determination and female foeticide in Tamil Nadu, Ms. Phavalam shared a number of practical difficulties in the current implementation of the PNDT Act. She mentioned that the Appropriate Authority under the Act has been established (the Director of Medical and Rural Health Services is the Appropriate Authority in Tamil Nadu) however, it does not have any funds at its disposal to give effect to the law and above all there is no political will to attack the culprits. At present the Appropriate Authority has retired and some other official has been put in-charge for the time being.

The campaign members have been interviewing various sonologists and doctors. It has been found that although the doctors notify that sex determination is illegal, in reality the picture is very different. The sonologists reveal the sex of the foetus orally. The PNDT Act states that the sex of the foetus should not be communicated by words, signs or in any other manner.

> *Section 5 (2) of the PNDT Act states, 'No person conducting pre-natal diagnostic procedures shall communicate to the pregnant woman concerned or her relatives the sex of the foetus by words, signs or in any other manner'.*

The Act also specifies that the prenatal diagnostic techniques cannot be used except for detecting certain abnormalities. It is however found that on an average the pregnant woman is recommended three to four scans. It is said that these scans are done for better medical management, to assess the growth of the foetus and to reduce the morality rate. This needs to be critically examined as there is no consensus on this.

> *Section 4 (2) of the PNDT Act states, 'No pre-natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely: [i] chromosomal abnormalities, [ii] genetic metabolic diseases, [iii] haemoglobinopathies, [iv] sex-linked genetic diseases, [v] congenital anomalies, [vi] any other abnormalities or diseases as may be specified by the Central Supervisory Board'.*

The Act also states the qualifications of the person who can perform the pre-natal diagnostic procedures. But in reality, it is difficult to find this being scrupulously followed.

The Act does not define the term 'prenatal' and therefore whether the law covers pre-conception sex selection and determination is ambiguous. Sex selection before conception is available even at a clinic in Madurai. The campaign protested against this clinic and filed a petition on the grounds that such a practice goes against the PNDT Act. However, the doctor managed to come out on bail. Since the word 'prenatal' implies the period which starts after conception, the period before conception (when one can technically alter and determine the sex of the foetus to be conceived) should also be included under the ambit of law.

With respect to the implementation of the Act, in Tamil Nadu it is found that the Advisory Committee has never met.

CAMPAIGN AGAINST SEX SELECTIVE ABORTION, TAMIL NADU

Strategic Plan of Action

- Organising camps/training programmes for adolescent girls on issues related to prevention of the declining sex ratio.
- Organising state/district level conventions of delegates of Women's Sangams on preventing/halting the declining sex ratio.
- Organising gender sensitisation programmes and legal awareness programmes to sensitise doctors and medical students, jointly with the IMA and associations of obstetricians, gynaecologists, sonologists, paediatricians, etc.
- Pressurising the government to strengthen the public distribution system and other basic needs programme so that all children have access to a balanced diet, safe drinking water and adequate health care to drastically reduce infant, child and maternal mortality.
- Examination of PHCs, government and private hospital registers on births and deaths of children and abortions to monitor the trends in child sex ratio.

- Demanding the State to issue an order permitting citizen's fora/registered organisations to examine these registers and the registers maintained under the MTP Act.
- Co-ordinating with Presidents of Village Panchayats, especially women Presidents for monitoring births, deaths, abortions, infanticide and foeticide practices
- Pressurising the government to rigorously implement the PNDT Act, 1994
- Pressurising the Appropriate Authority and the State for the democratisation of the structure and functioning of the Appropriate Authority and Advisory Committees
- Monitoring the registration of the clinics and taking action against those who violate the provisions of the Act

Ms. Sudha

Ms. Sudha from Shakthivardhini has been involved with the issue of female infanticide in Bihar since the past four years. But Shakthivardhini of late has discovered that the practice of female infanticide is giving way to female foeticide with the penetration of technology to even the remotest places of Bihar. She stressed that the problem of female foeticide is not a problem of one state but that of the entire country.

Adverse sex ratio: There are very few states in the country where the sex ratio is balanced, but largely the sex ratio is not favourable to the women. In 1901, there were 972 women to 1000 men while in 1991, we have only 927 women per 1000 men for the whole country. In Bihar, the situation is very dismal with the sex ratio declining from 954 per 1000 men in 1901 to 912 per 1000 males in 1991. This is a reflection of the overall violence that is taking place against women.

Abuse of Medical Technology: Due to advancements in medical research, new techniques came about to monitor the development of foetus, but these techniques are being grossly abused to determine the sex of the foetus and if the foetus is found to be female, to kill the female foetus. This is not restricted

to the urban areas and even people in villages are found to be using sex determination techniques. Female foeticide is rampant in villages and in Danapur near Patna, there is a private clinic which has done 200 female foeticides in a day.

Evading law and Unethical practices by the medical professionals: No social problem can be solved by law and change in the attitudes and values of the people is essential. Under the Indian Penal Code, it is a crime to cause miscarriage of a 'quick' foetus, but is there anyone who is penalised under this section.

Although the Medical Termination of Pregnancy Act (MTP Act) states that a registered practitioner can terminate the pregnancy under specific circumstances up to 12 weeks and with the consent of one more medical practitioner up to 20 weeks, in Bihar, abortions are carried out even after 20 weeks of gestation. The doctors have been using the MTP Act which allows abortion to suit their commercial interests. The new techniques such as amniocentesis are also being used by the doctors to determine sex and thereupon abort the female foetuses, but we do not have researched data to prove the claims. In Mumbai, it was found that in one year out of 9000 abortions that were conducted, 8999 foetuses were female and only one was male.

The PNDT Act states that only registered clinics can perform pre-natal diagnostic procedures barring sex determination, but this is not followed in Bihar. Even advertising of such procedures which is banned under the Act continues unabatedly in Bihar where it is common to find advertisements saying 'pay Rs. 500 now for determining the sex of the foetus and save Rs. 5 lakh, the cost of having a girl child tomorrow'.

In Patna there are about 250 genetic centres that practice sex determination and female foeticide. These centres are purely commercial in their motives and sometimes give wrong results to the expectant couple. Ms. Sudha cited a case of a pregnant woman who had three daughters. When it was detected that the fourth child would also be a female child, she was pressurised by her family and relatives to abort. The activists from Shakthivardhini were able to convince the pregnant

woman against terminating the pregnancy but her husband could not be convinced. The woman was taken away by her family for six months. After she returned it was learnt that she had induced abortion at a later stage in her pregnancy and she found out that she was actually carrying a male foetus.

Section 22 (1) of the PNDT Act states, ' No person, organisation, Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall issue or cause to be issued any advertisement in any manner regarding facilities of pre-natal determination of sex available at such a Centre, Laboratory, Clinic or any other place.'

Section 22 (2) states, 'No person or organisation shall publish or distribute or cause to be published or distributed any advertisement in any manner regarding facilities or pre-natal determination of sex availablr in any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other place'.

Section 22 (3) states, 'Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees'.

Explanation – For the purpose of this section, 'advertisement' includes any notice, circular, label wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas'.

Poor Implementation of the Law: In Bihar, the PNDT Act remains only on paper and it was notified only in the year 1996. The government is indifferent about its implementation and the Advisory Committee has yet to be formed. Ms. Sudha mentioned that their organisation has been trying to put pressure on the Government, but it has been in vain. However, they have not given up trying.

Key Points from the Discussion:

- It was stated that the delayed action by the IMA on the issue of sex determination was because the IMA had initially looked upon sex determination as an achievement. However, with the inputs from the social scientists and activists, the IMA realised that there has been a growing abuse of the technology. This has pushed the IMA into action and the recently enacted Delhi Insemination Act can be considered as an achievement of the IMA. The Kerala State IMA is taking up the issue seriously and there is no factionalism or controversy among the IMA about the stand on this issue. The IMA has notified all the sonologists that they must register as per the PNDT Act and this will be seriously imposed by the IMA. The IMA is totally committed to the issue.

- The question about whether any male baby has been aborted was raised.

- It was stated that ultrasound is done for various reasons and not only for detecting abnormalities in the foetus. It is therefore difficult to regulate its use. It is also difficult to give exact guidelines on how many times it should be done.

- The intent of the law can be interpreted as requiring anybody who is doing an ultrasound to register. However, in Karnataka, the ultrasound professionals refused such mandatory registration and now the IMA is trying to enforce this part of law through its members.

- The question of ethical medical practice was also raised in the context of doctors performing abortions in the last months of pregnancy even at the risk of the pregnant woman.

- It was stated that the gynaecologists alone are not at fault. A large number of terminations of pregnancy are done by the non-professionals. A small proportion of MTPs may be done with a motive of female foeticide but by and large the majority are done for reasons/grounds specified under the

Act. The IMA should be in a position to motivate 70% of the gynaecologists to abide by the law.

- A question about how can 200 abortions be conducted in a clinic in a day in Patna and the source of such data was raised. It was mentioned that in a clinic in Danapur, Shakthivardhini tried to find out confidentially how many abortions are carried out in a day. This study was conducted for 15 days and on one particular day 200 abortions were performed.
- It is important to recognise that in a vast country like India the spread of sex determination clinics is different. In Punjab, there has been a dramatic increase in the abuse of technology which is reflected in the distortion of sex ratio which is as low as 750:1000 male population.
- In Madurai, it is difficult to find even a single ethical medical practitioner. There are many doctors in Usilampatti and Madurai who abort even in the unsafe period.
- Law is definitely not sufficient although it is necessary to address the issue of female foeticide.

THE PRE-NATAL DIAGNOSTICS TECHNIQUES ACT: GROUND REALITIES

Reality

- The problem of female foeticide and sex determination is essentially a problem rooted in our patriarchal society. The sex ratio has continued to be unfavourable towards women over the past ten decades.
- Medical practitioners are major actors in the problem. The problem is being perpetuated due to their lack of adherence to law, unethical practices and their vested and commercial interests.
- The field experiences show that the provisions of the PNDT Act are being clearly flouted. The implementation mechanisms are not in place and hardly anybody has been prosecuted.

Issues/Concerns

- Although law helps in norm creation, how effective can it be as a tool in addressing the social values and attitudes which contribute to the problem of female foeticide?
- How can the medical fraternity be actively involved in monitoring their own professional conduct and thereby stopping this practice?

Points for Action

- The need to set up the implementation machinery and overseeing that it functions effectively
- Need to foster medical ethics through the professional bodies and through the medical curriculum
- Need to work at the grass-roots level constantly for action against the offenders and for feeding the knowledge about various factors that contribute to the problem.

The Role of Medical Profession in Fostering Ethical Practices

Dr. Neelam Singh

Triad of female foeticide: Dr. Neelam Singh said that if we analyse the social dynamics of female foeticide, we have the victim, the ultrasonologist and the abortionist. The abortionist could also be the gynaecologist although not all abortionists are gynaecologists. Thus one finds that there are two doctors and a victim. From this it appears that the two doctors can have an important role to play.

Relationship between the doctors and the society: Although doctors are a significant force that can put an end to this practice, they too live in the same society and often endorse the same social attitudes and inclinations which give rise to the problem in the first place. Medical professionals are business like and perform functions mechanically. They operate on the existing demand and supply situation and are insensitive to social attitudes. They are not sensitive towards the future social dynamics as a result of declining sex ratio. There is a slow degradation of moral and ethical values among the medical professionals and commercialisation of the practice is slowly creeping in as in several other professions. Social attitudes are therefore exploited by the doctors in order to further their own commercial interests.

Medical professionals and the law: Most medical professionals are not aware of the PNDT Act and the provisions under the same. Therefore, they do not believe that a legal wrong has been committed by them. Several times, it is found that the doctors do not keep records which is mandatory. Sometimes inaccurate test results are given and there are many instances of malpractice. Heavy amounts are charged for providing such services. Very often, abortion is also done at the cost of safety of the mother. Under the PNDT Act, all the centres have to be registered. But in reality, hardly any centres are found to be registered.

After conducting a workshop in Lucknow about this issue, only two centres in Uttar Pradesh were registered. Organising such workshops, and displaying the provisions of the Act on various hoardings, has helped in raising awareness among the doctors. Since doctors have very little knowledge about the issue, raising awareness will help in stopping the practice. Training the doctors and distributing copies of simplified law in operational language is required.

However, it is difficult to control the so-called local doctors who are also involved in this practice. Mandatory registration of all the imported machines will help in keeping track of those who use these machines to determine the sex of the foetus.

The IMA can debar members who do not follow the law. The long term implications of flouting the law and the risks to the doctors should be communicated widely amongst the medical community.

Medical Curriculum: The medical curriculum has to be sensitive towards gender bias. These social dynamics are not taught during medical education.

Dr. Sharada Jain

Role of the medical profession: The medical profession like any other profession does not very often practice what it preaches. In the last two decades, technology has advanced rapidly but there has been an unholy alliance between the technology and the medical profession. Although the PNDT Act has been enacted since the past 5 years, the doctors do not know the provisions of the law. Although doctors are literate, they at least pose that they are unaware of the far reaching implications of the adverse sex ratio.

Quackery in practice of abortion is booming. More than 50% of the sonography tests for sex determination and female foeticide are done by those who are not trained to do it. This requires urgent attention.

Law cannot replace self-regulation and pressure from peer not to indulge in unethical practices. If senior gynaecologists and ultrasonologists stress on moral and ethical values, there will soon be a change in the overall medical community.

Implementation of the PNDT Act: In Delhi alone there are presently about 2000 ultrasound machines. These are potential sources for sex determination. However, only two genetic clinics in Delhi have been registered and are thus legally permitted to perform pre-natal diagnostics. The Appropriate Authority of each state as well as IMA state branches should notify this to the public and doctors, and state the names of those clinics which are registered and are therefore permitted by the law to operate. This will make a difference.

Pre-conception Sex Selection: According to the PNDT Act, only sex determination is banned. If law is interpreted narrowly, pre-conception sex selection can be said to be permitted. The modified law must include a ban on selecting the sex of the foetus before conception by any method. At least open advertising of this facility needs to be banned under the law.

Need for Ethical Medical Practice: What is urgently required is to foster ethical medical practices among the medical community. The medical profession owes something to the society and it can do justice to the society if ethical practices are followed. If the IMA gynaecologists association (FOGSI) and Ultrasonologist Association of India, and their local branches appeal to their members against the abuse of technology and selective sex abortion, things can be made to change.

Dr. Mira Sadgopal

Dr. Mira Sadgopal had scanned recent and past media and opinion literature on the subject in the context of ethics. Just the day previous, a Times of India editorial had highlighted the implications of female infanticide and foeticide in this country. Indeed, technology is offering more and more 'sanitised' approaches to do away with female babies. And while the falling sex ratio is of great concern, the uncomfortable fate of surviving

girl children and women is of equally great concern. While the sex ratio has been dropping throughout this century, in some parts we are shocked to learn of ratios approaching 600 females per 1000 males. Even in forward areas like Kerala where the female-to-male ratio has been positive, now we are seeing a negative sex ratio coming up in the sensitive 'zero to five' age range. Again this is definitely suggestive of the demographic effect of female foeticide.

Attitudes of doctors: Attitudes of doctors towards sex determination were documented in 1987 in a Medico Friends Circle Bulletin article by Dr. Amar Jesani. When the Maharashtra Bill (on misuse of pre-natal diagnostic techniques for sex determination) was introduced in 1980s, the early response of doctors was indifference and unconcern. Later on, as a lot of research data was brought to light, medical bodies were forced to open for debate.

Doctors had many arguments to justify female foeticide. They said that sex determination techniques were much less hazardous for women than giving birth to unwanted girls. It was a cheap and safe choice for women. Then, it was argued that 'people in society' are the culprits rather than the doctors. They felt it was alright to determine the sex of couples with several daughters, as foeticide would save girls from life-long maltreatment and misery and save women from torture and abandonment. Lastly, doctors argued that since MTP itself is legal then there should be no bar to female foeticide, and conversely, if female foeticide is banned then MTP also should be banned. Interestingly, all of these arguments from doctors are basically social and legal, not medical.

Policy of the Government: In these same recent years, as part of population control policy the Government adopted a goal of achieving NRR1, or Net Reproductive Rate of One. This meant that, on average, a woman should replace herself by only one daughter. For more than a decade this Government position has given implicit support to arguments for preventing births of female children.

Medical Prachice & Ethics: An editorial by Dr. Anil Pilgaonkar in the current issue of 'Issues in Medical Ethics' from Mumbai discusses a peculiar predicament of medical practitioners with regard to ethics. We hold doctors responsible for three aspects medical practice: knowledge, skills and a humane attitude - or medical ethics. A young doctor will often be seen brushing up the first two, but rarely if ever attending to the third. Even legally, assessment of a physician's competance focusses specifically on the first two only. This contributes to doctors' unethical action, reaction or bewilderment when they face difficult ethical problems and decisions.

As Dr. Jesani similarly pointed out, knowledge and skill is one aspect of medical practice but service is another. The medical professionals try to define themselves separate from society, but they do derive their values from society. The doctor-patient relationship, considered sacrosanct, is imbalanced and can easily violate individual patients' rights.

Most disturbing from a social standpoint, we can clearly see a fascist tendency in positions and stands that doctors tend to take. Doctors in Germany collaborated with the Nazi Government in conducting unethical experiments and exterminating millions of so-called 'undesirable' persons. In our country, we should be warned that most doctors are unperturbed by mass sterilisations, administering long-acting provider-controlled contraception without informed consent, hysterectomies of mentally retarded women, diagnosing sex using hi-tech methods for purpose of female foeticide, and now sophisticated male sex pre-selection before conception. Further, there is occasional expression of genocidal tendencies in the cause of racial sanitisation, and reported refusal to treat or discrimination against patients from opposite communities. The collusion of police and doctors at the cost of justice is frequently seen, as in bride-burning cases.

Regarding enforcement of a 'Code of Ethics', the Medical Council of India (MCI) already has one, but it is largely unknown. Furthermore, medical ethics is never a static issue. Any such code needs to adapt to the times.

Key Points of the Discussion:

- The problem of female foeticide is essentially a social problem of gender bias. It involves issues of morality, medical ethics, demographic imbalance and the specific right to life of female children. This bias is perpetrated by religious beliefs, rites and processes. We have to make having daughters and treating them well a sign of social self-respect.

- In response to a question about who motivates the patient to use sex determination tests - the doctor, the husband or the family - the need to look at all factors in the process was stressed. The entire family is sometimes found to be responsible. Not only must the law be more stringent, it should focus holistically on all aspects of the problem.

- Not knowing the law cannot be an excuse by members of the medical profession. Medical colleges must give prominence to teaching laws related to medical practice.

- Even today, the medical fraternity shows very little interest in courses and talks on ethics and human values. Medical curriculum also needs to address questions of gender bias. At present the medical curriculum is inadequate in this regard. Efforts towards developing innovative curricula in places such as the Rajiv Gandhi Medical College and St. John's Medical College need to be seen and replicated.

- Although awareness about the law is important for the implementation of law, law is a simplistic solution to the problem. The role of the medical profession in the prevention of the problem is a crucial one. We should re-look at the MCI's Code of Medical Ethics drafted in 1972. Evasion of legal norms is not permissible under the Code; the physician is expected to observe the law of the land and not assist others in evasion of laws. A code also has to be specific, dynamic and include newer dimensions of ethics.

- With regard to how to make law effective, it was felt that the medical fraternity through the IMA should take a lead to identify ethical practices that need to be followed as well the kind of obligations that need to be placed on the profession. It is often easier to identify the problem wherever there is a breach of ethical obligation. The professional body should zealously guard its members from partaking in unethical practices.

- Clarification was sought regarding the Medical Council of India. In contrast to the professional body like the IMA, the MCI and the subsidiary bodies of the states are statutory bodies. MCI is the one which puts down the Code of Conduct and all the state bodies are also bound by the same. The State Medical Councils can receive complaints. The MCI can act against those who are registered under MCI and not the state doctors who are registered under the State Medical Council.

- If the MCI considers sex determination and female foeticide as a violation of medical ethics why is it that they do not act? If the MCI were to play an active role, the provision of an 'Appropriate Authority' under the PNDT would be made redundant. The NHRC had asked the MCI to take action on this issue. However, it took three years for the MCI to come out with a Declaration.

- The IMA has a large membership of doctors who need to be sensitised. With its 1700 branches, the IMA can play a watchdog role in society. Offences committed by the doctors, once identified and verified can go to the relevant State Medical Council bodies and action can be initiated. To establish a precedent of peer monitoring, the IMA will have to delve into and overcome the tendency of the doctors to protect each other no matter what.

- An example of collusion between the sonologist and the abortionist in Madurai was narrated to pose the question, 'to what extent is separation of diagnosis and foeticide is possible?' Another dimension that is important to determine

is the extent to which doctors make money using these practices. It is seen in the field that many abortionists now also do sonograms and use it to their advantage.

- There is a need to generate awareness that a gynaecologist is not qualified to do ultra-sonography. In Delhi, among the 2000 ultrasound clinics, the centres that are more popular are generally run by the untrained personnel. Even so, the tremendous potential to earn money - not just by aborting female foetuses but in this whole new industry - needs to be investigated. The research-and-market nexus for sex pre-selection is something that the medical profession needs to question seriously and attack.

- If doctors are sensitised, it will make a difference. As Doctors are a part of society and it is our social duty to keep their value system in place. We should not take a back seat in helping our profession to adhere to sworn medical ethics, whether by the Hippocratic oath or the Oath of Geneva or the MCI Code of Conduct.

- The social norms about what is right and what is wrong are changing rapidly. What was abnormal yesterday may seem normal today. Today it is 'normal' to practice female foeticide and this is a very frightening trend.

- A somewhat different point of view was expressed in an article by Madhu Kishwar, editor of 'Manushi'. She says that legislation against female foeticide has not only been ineffective but may even be counter-productive. It increases corruption enabling doctors and the police to make money, a section of the medical profession gets criminalised and the malpractice goes underground. She suggests that the only effective measure against female foeticide will be supporting women's equal rights and development.

- The need to create a system to sustain the debate on female foeticide was felt.

ROLE OF MEDICAL PROFESSION IN FOSTERING ETHICAL PRACTICES

Reality

- A majority of the doctors are not aware of the provisions of the PNDT Act.
- A large number of doctors are not sensitive to the socio-cultural realities and the prevailing gender discrimination.
- The medical profession is slowly degrading in ethical practice and commercialisation and vested interests are creeping in.
- A number of untrained professionals are engaged in the practice of sex determination and female foeticide.

Issues/Concerns

- How can the medical fraternity see itself as part of the society and also the problem and take responsibility to monitor and regulate itself?
- How can we bring in ethical practices within the medical profession in a commercialised and a consumerist society?
- If a penal law is responsible for pushing the practice underground, what supplementary measures can one think of?

Points of Action

- Training and sensitisation of the medical professionals, beginning with the changes in the medical curricula.
- Involving the MCI and IMA to monitor the ethical practices and implementation of law within their own profession.
- Relooking at the Code of Ethics and keeping it dynamic and responsive to social realities.

Changes in Law and Better Implementation

Prof. S. V. Joga Rao

Law prohibiting sex determination: Under the law, female foeticide is feasible under qualified circumstances. The contentious issue is that of sex-selective abortion. Since the law is not able to control and monitor the abortion of female foetuses, it has banned the use of sex determination itself. Thus, by law, foeticide is legal, but sex-selective abortion is illegal.

Criminalisation by law: What is the efficacy of law with respect to female foeticide and sex determination and how far is criminalisation an adequate response? The doctor, woman or husband and the unborn child are three entities involved in this situation. In the context of sex determination, the parties are mutually consenting and the 'victim' is not only voiceless but also helpless, and it is therefore difficult to bring about a change through criminalisation of law. Unless and until somebody takes it up as an issue for prosecution, the fact of foeticide gets buried by all the consenting perpetrators. Whether a woman is forced to undergo sex determination test or not, is different matter. The present law, recognises a rebuttable presumption to the effect that the woman is coerced to undergo the pre-natal diagnostic technique by her husband or her relatives.

Law and technology: The use of technology per se is not illegal, only its sex-selective application is illegal. The PNDT Act is based on the technology available in 1994 which has already become obsolete. With newer technology coming in, newer dimensions get generated which need to be covered by the law. It is important to understand the new technology and its implications on society along with its various facets. Therefore the question is how do we counter such technologies and the way they are used/abused?

Role of the medical professional: The practice of female foeticide essentially involves the medical profession, be it a sonologist,

or a gynaecologist. The role of the medical doctor in sex determination is also very critical. There are various ways by which a community kills a female infant, but to terminate a foetus, an expert medical professional is needed. So one doctor identifies the sex of the foetus and the other terminates. These practitioners may collude and act hand in hand. Although an offence has been committed according to the law, it is almost an impossible task to prove that sex determination test has taken place.

Sex Determination as a Cognizable Offence: Although section 27 makes every offence under the PNDT Act cognizable, non-compoundable, non-bailable, section 28 requires the complaint to be made through the Appropriate Authority. Since the offences are cognizable, the police can act on their own and undertake arrests. But section 28(a) states that the Court cannot take cognizance of the offence except on a complaint made by the Appropriate Authority. The Appropriate Authority is usually never constituted and even if it is, they do not act on their own. Therefore we need a strategy to bypass the Appropriate Authority. Since the offence committed is cognizable, procedures like arrest can be initiated on their own without having anything to do with the Appropriate Authority. Any person who has information about the offence can inform the police and set the process in motion. The role of the Appropriate Authority is relevant only for the purpose of taking cognizance.

Importance of Records as Evidence: Doctors involved in these processes are required by section 29 of the PNDT Act to maintain records. In order to move the court of law and sustain the prosecution, evidence related to use of sex determination of the foetus is required. But there are several difficulties in accessing these records as the doctors can easily fabricate them. Thus, collecting evidence is almost impossible. Although the doctor's records help in collecting evidence, they cannot be obtained since they go against the interests of the same doctor. The Appropriate Authority has to act hand in hand with police to collect evidence. Unless and until the law facilitates evidence collection, law will only be a paper tiger.

Need to look at the MTP Act: We also need to look at the MTP Act in its broad context. The basic premise of MTP qualifies abortion even of the female foetus. The PNDT Act however assumes several factors. Although the right to life is violated, one cannot go to the court. The society is the victim as also the foetus which is voiceless. Hence, ethical obligations imposed on the part of the doctors would in all probability act as effective preventive measure. It is also difficult to prove that the sex of the foetus is communicated to the people. The person affected cannot appear before the court. Person who commits the offence colludes with the perpetrator. We need a complete overhaul of the legislation. But can we make it workable in its present form?

Law as a part of the solution: Within the available legislative framework, taking into consideration the relevant provisions, one can give a particular meaning to the law and take actions. Even if changes are made, law may not still solve the problem. However, for instance, explicit advertisements indicating undertaking of sex determination tests can be taken note of and on that basis prosecution can be initiated. Similarly, the mandatory procedures pertaining to registration of clinics/ laboratories/centres must be rigorously enforced. In the event of default, prosecution must be initiated. Imposing obligations on the doctors to maintain records will also facilitate evidence collection to some extent. Ethical practices within the medical profession have to be stressed and law as a strategy should be the last resort. Sex ratio should be seen only as an indicator and even if it is favourable towards women, it does not mean that we should be indifferent to sex determination and consequent female foeticide.

Anita Shenoy

International Obligation: As India has signed the Beijing Declaration without any reservations, it is bound by an international obligation to fight the practices of female infanticide, female foeticide and pre-conception sex selection.

Implementing the PNDT Act: Do we need another legislation which is better than the present one or do we interpret the

present law constructively and use it to its maximum potential. One can bring simple offences under the law to the Court where it is not very difficult to get evidence. For example, we can file cases against those clinics which are not registered, clinics for advertising their sex determination facilities, practitioners who do not have the required qualifications under the Act. Only after we start using the law will we get to know its true limitations.

Who can go to the Court: As per section 28 (b) of the PNDT Act, any person (which would also include a social organisation) can give a notice of 30 days to the Appropriate Authority about the offence and his/her intention to move the court. The Court is bound to take cognizance of this individual complaint.

Pre-conception sex selection: There was only one complaint in Madurai using the PNDT Act, however, the accused was released on bail as the pre-conception sex selection is not covered under the Act. Although it might appear that the pre-conception sex selection is not included in the Act, if we look at the intent of the PNDT Act, it gives lawyers a lot of room for interpretation. It would also be important to remove the word 'pregnant' attached to the word 'woman' from the purpose of the Act. This could then be interpreted to include pre-conception sex selection also, as a part of the process of determining the sex before conception happens outside the woman's body when the woman is not pregnant.

Role of the medical practitioner: For the offence of sex determination or female foeticide to be completed, the intervention of the third person, who is the doctor, is required. Prevention can begin there and although social pressures are there, doctors can play a major role.

Key Points from the Discussion:

- Advertisements of sex determination facilities can be banned but the fundamental problem is that the information of this kind is passed through word of mouth and there can be no evidence. In Punjab, there are several such centres and there

is a chain of agents who pass on the information from the clinic to the village and everybody knows about the availability of such techniques. In Rohtak, everyone knew that it is not possible to get these tests done in a government clinic and that it is available only in private clinics.

- Although there is a scope for the private complaint to be lodged after giving a notice of 30 days to the Appropriate Authority, all the evidence is likely to be wiped out during this period. Since the ultrasonologists communicate the sex of the foetus orally, it is not possible to get evidence.

- In the cities, everyone knows who are the major culprits among the medical profession. However, we need law as a deterrent. The Maharashtra law was far superior than the national law. The Maharashtra Appropriate Authority was also a multi-disciplinary body. We need to strengthen the base of Appropriate Authority under the PNDT Act.

- Interpreting the Act to include pre-conception sex selection is risky as the Act talks of pre-natal 'diagnostics' and there is no diagnosis involved in pre-conception sex selection. The Act can easily be construed narrowly and this would then not get covered under the law. Therefore one needs to push for an amendment of the present law to include pre-conception sex selection.

- The IMA had recently lodged complaints against four doctors. Letters were written to the doctors concerned, Department of Health and the MCI. The IMA received a letter from a lawyer on behalf of the doctor stating that the ultrasound machine is used by the doctor in his own practice to diagnose problems and is not in any way related to the practice of gynaecology. The others are still working on the letter.

- The doctors are afraid of law and even if a few doctors are arrested, it will create fear amongst the rest and act as a deterrent. However, fear would not last long once they know that nothing will happen and then law will become useless.

- Certain workable provisions will have to be identified to make law more effective. We have to mount pressure on the authorities who are meant to implement the Act. The appointment of people in the Advisory Committee is very often a political decision. The Advisory bodies both at the State and the Central level are toothless. There has to be constant vigil by the NGOs and the media on the functioning of these bodies. If the Advisory Committee does not meet in six months, as it is expected to meet, we can seek a writ of mandamus for not performing a duty imposed on them by law.

- How do we establish evidence? Do we rely on certain test cases? How do we actually monitor these cases? Do we take a sample? How do we rely on records maintained by the doctors which may be fictitious? How seriously can we take the records when the doctors themselves are a party to the offence. What kind of mechanisms can be used to gather evidence and what kind of evidence? The doctors may record the sex as a male child and still abet female foeticide. In any case, doctors can never conclusively state the sex of the foetus.

- How do we monitor the doctor-patient relationship. Do we rely on Inspector Raj that will give rise to other problems such as bribery and corruption? Do we depend on the bureaucracy to do this or is there an alternative?

- At some stage we will have to look at the PNDT with the MTP together. We also have to realise that the law can help only to a certain extent.

- We need to attack all laws that have a gender bias.

- Who should be punished? The 1870 law indicated what could be done at the community level to stop the practice of female infanticide, such as providing incentives/ penalties, giving property to women. We must take into account the social factors while devising any strategy, including the legal strategy.

- Section 6 of the PNDT Act creates the norm which condemns use of sex determination and offers it a legal base. How do we strategise keeping this norm in mind? Can we draw lessons from other areas of work? For example, can we start a national campaign against this practice not relying only on law. Every profession is corrupted but also has certain committed people. How do we use such people in the struggle? How can all of us work in tandem?

- Can we catch hold of a few perpetrators and effectively prosecute them. The prosecution against them may fail but it will have its own impact.

- How do we follow up action using law? We should have a threadbare examination of the present laws covering these areas.

CHANGES IN LAW AND BETTER IMPLEMENTATION

Reality

- Criminal law against the practice has not worked effectively as there is a consensual agreement between both the parties to the offence
- It is extremely difficult to collect evidence and sustain the prosecution in the Courts
- The role of the medical professional is critical and therefore legal and ethical obligations need to be specified for them
- The present law is unable to cope with the rapid advancements in technology and still covers technology that was available in 1994.
- The present law does not recognise pre-conception sex selection as an offence.

Issues/Concerns

- Do we need to have another law or should we start constructively interpreting and implementing the present law?
- Should we rely on the Appropriate Authority to initiate proceedings or should we take a pro-active role in view of the fact that the offences under the PNDT are cognizable?
- How do we facilitate maintenance of records and gathering of evidence which can sustain prosecution?
- What should be the extra-legal strategies which can supplement the legal norms laid down in the PNDT Act?

Points of Action

- Begin to use the law to book offences such as lack of registration, advertisements, lack of qualified personnel performing the procedures, etc.
- Launch a nation-wide campaign against the practice
- Undertake a threadbare examination of the existing law
- Work together to ensure that the Appropriate Authority and the Advisory Committee are constituted and function effectively.

Key Inputs from the Plenary Discussion

Dr. Shobha Raghuram

- The issue of female foeticide is extremely complex. It is linked with issues of gender, patriarchy, issues of political economy, displacement, etc. Practices such as these reflect a colossal failure of the civilisation and society. It is important to examine the notion of societal culpability and look at all forms of institutions within the society. There is also a need for critical self reflectivity by various professionals.

- Since Independence, ethics have been increasingly influenced by the phenomenon of the need to maximise one's profits and is tinted with the need to promote one's self interest. In this context, it is difficult to look at discipline and to ask people whether they are willing to limit their self interest.

- In Rajasthan, there are child brides of 8-13 years. By the age 18 years these child brides have also undergone abortions. The activists working with them have realised that the issue of right to information is becoming absolutely critical. It is in the notion of informed consent that one would lay the problem of culpability. The field reality shows a poor quality of life and a high degree of destitution. It is important to see the notion of freedom in this context. Also important is to look at the entitlements which go with citizenship, especially in a context where even the basic facilities are not available.

- The issue of female foeticide and infanticide have links with the issue of patriarchy. Women should have to access literacy, resources, employment, education, health, etc. It is also important to protect women through their entire lifecycles.

Ms. Donna Fernandes

- One can understand (although one may not accept) why a woman wants to terminate the life of a female foetus if one realises the violence that is taking place against women everyday. About 100 women are killed or driven to death by society in Bangalore every month. In such a context, many families even in the middle class, consider a female child to be a burden.

- The whole context in which termination of pregnancy occurs has to be understood. Very often it is found that there is a collective conspiracy to defeat all ends of justice, right from

filing FIR to post-mortem. The medical profession protects itself and justice is denied.

- Unless we are able to address the real issue, there is no use of having law. The usefulness of law lies in its translation. It is not correct to put all the burden on NGOs. There is a need to look at the other sectors as well. We must also be cautious by not allowing ourselves to be co-opted.

- The women must be provided with adequate support systems. Under no circumstances should the woman be arrested as women are forced to operate under coercion. Social attitudes towards women have to be changed. We need to demystify the role played by the man and the woman in determining the sex of the child and we also need to re-affirm the value of the girl child. Strict monitoring of the law by the authorities as well as by the civil society is essential. Bringing back ethics into legal and medical professions is required.

Proposals for Action

- The NLSIU should form a study group to look at the issue of female foeticide in the context of law. In Karnataka, the NLSIU should be more actively involved in studying and monitoring the issue.
- More people from different streams need to be mobilised to work on this issue and concrete support system should be set in place for carrying out the follow-up.
- We must launch a nation-wide grass-root level campaign wherein there is a mobilisation from family to family. Simple pamphlets in regional language to increase accessibility to information should also be brought out. We can draw upon NGOs from across the country for a simultaneous impact.
- An apex group with the NGOs to carry out action research should be formed. This group could be funded from local resources.
- Case histories of ethical practices, successes and dilemmas should be recorded.
- There is a need to reform the medical curriculum.
- There should be an information network with all groups involved with this issue linked to each other. A quarterly bulletin for such a group can also be started.
- There must be a drive for registration of pregnancies, births and deaths. Although registration may help in providing better antenatal care to woman, one should be careful of not undermining the right of the woman to decide and control her own body.
- We should not undermine the potential of traditional institutions like the panchayats, religious institutions, etc. and should use them creatively.
- The proceedings of this discussion should be widely circulated among the officials and other key actors.

Annexure 1

A POEM

(An Expression of the Female Foetus)

What is my fault, is it that I am a girl

I do not know the ways of your world,
I am yet to be born, I am still scared,

Let me just see a ray of sun, I promise you
if give me life, I will give you the moon

This is my promise to you,
I will bear every pain and sadness,
If you let me live.

By Ms. Sudha, Shakthivardhini, Bihar.

Annexure 2

LITTLE GIRL LOST

When a young girl in a Rajasthan village was married recently, it was frontpaged in this newspaper. The reason - she is the first to do so after a gap of 110 years. She is the one who got away by a series of fortunate coincidences for no girl has been reported born in Devra village in Barmer district all these years. The chilling report details how infant girls are done away with – smothering and feeding them opium are among the common methods. The most barbaric is perhaps drowning the infant in milk, the substance which should have sustained her in her early years. But it is because Devra is so remote and backward that the child is actually killed after birth. Elsewhere modern technology is eliminating the very possibility of the girl child ever being born. Among these is ultrasound which can accurately gauge the sex of the child after the first trimester of pregnancy when an abortion can be undergone though it could endanger the mother's life. Amniocentesis is one step ahead, it can determine the sex of the foetus earlier while chorionic villus sampling can do so very shortly after conception. Under the Pre-natal Diagnostic Techniques Act, all tests designed to determine sex are illegal, but that has never stopped unscrupulous doctors or anxious parents from resorting to them.

This perversion of new technology continues – couples can now choose the gender of their child even before conception. A new technique which has caused considerable disquiet in medical circles is now being openly advertised. It offers a method by which sperm carrying X or Y chromosomes can be separated, fertilised and implanted in the woman. This way, parents can choose to have a baby boy with almost 70 per cent accuracy – or so those advocating this technique claim. This tampering with the very basic structure of life is not only ethically and morally questionable, but could have consequences of which we are still ignorant. The social implications of such selective elimination through cruder methods is already evident. The male-female ratio has been declining steadily from 972 in 1961 census to 927

in the early nineties. In the BIMARU states, the ratio hovers around 850 per 1000 to as low as 600. Even Kerala, long held up as a model for its favourable male-female ratio has been affected by this preference for sons. A recent survey shows that below the age of seven, there are only 1,877,373 girls to 1,959,527 boys. Clearly, adverse changes are taking place even in societies where girls enjoyed some measure of equality. Even those girls who survive, continue to face discrimination all their lives. Chronic nutritional, educational and emotional deprivation ensure that of the 13 million girls born every year, 25 per cent do not live to see their 15th birthday. What can then be done to eliminate this persistent bias against the girl child? The most crucial factor would be to foster greater male responsibility in correcting gender inequality. This way, a retrogressive male social order would cease to be such a hindrance to the realisation of women's rights.

- Editorial, The Times of India, dated September 22, 1999.

Annexure 3

THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT, 1994[1]

[No.57 of 1994]

[20th September, 1994]

An act to provide for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide; and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:-

Prefatory Note - Statement of Objects and Reasons. 1. It is proposed to prohibit pre-natal diagnostic techniques for determination of sex of the foetus leading to female foeticide. Such abuse of techniques is discriminatory against the female sex and affects the dignity and status of women. A legislation is required to regulate the use of such techniques and to porvide deterrent punishment to stop such inhuman act.

2. The Bill, inter alia, provides for:-

   i) Prohibition of the misuse of pre-natal diagnostic techniques for determination of sex of foetus, leading to female foeticide;

   ii) prohibition of advertisement of pre-natal diagnostic techniques for detection or determination of sex;

   iii) permission and regulation of the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders;

[1] Received the assent of the President on September 20, 1994.

iv) permitting the use of such techniques only under certain conditions by the registered institutions; and

v) punishment for violation of the provisions of the proposed legislation.

3. The Bill seeks to achieve the aforesaid objectives.

Chapter I

PRELIMINARY

1. Short title, extent and commencement. (1) This Act may be called the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. In this Act, unless the context otherwise requires, -

(a) "Appropriate Authority" means the Appropriate Authority appointed under Section 17;

(b) "Board" means the Central Supervisory Board constituted under Section 7;

(c) "Genetic Counselling Centre" means an institute, hospital, nursing home or any place, by whatever name called, which provides for genetic counselling to patients;

(d) "Genetic Clinic" means a clinic, institute, hospital, nursing home or any place, by whatever name called, which is used for conducting pre-natal diagnostic procedures;

(e) "Genetic Laboratory" means a laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Clinic for pre-natal diagnostic tests;

(f) "Gynaecologist" means a person who possesses a post-graduate qualification in gynecology and obstetrics;

(g) "Medical geneticist" means a person who possesses a degree or diploma or certificate in medical genetics in the field of pre-natal diagnostic techniques or has experience of not less than two years in such field after obtaining, -

(i) any one of the medical qualifications recognised under the Indian Medical Council Act, 1956 (102 of 1956); or

(ii) a post-graduate degree in biological sciences;

(h) "paediatrician" means a person who possesses a post-graduate qualification in paediatrics;

(i) "pre-natal diagnostic procedures" means all gynaecological or obstetrical or medical procedures such as ultrasonography, foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to a Genetic Laboratory or Genetic Clinic for conducting pre-natal diagnostic tests;

(j) "pre-natal diagnostic techniques" includes all pre-natal diagnostic procedures and pre-natal diagnostic tests;

(k) "pre-natal diagnostic tests" means ultrasonography or any test or analysis of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of Section 2 of the Indian Medical Council Act, 1956 (102 of 1956), and whose name has been entered in a State Medical Register;

(n) "regulations" means regulations framed by the Board under this Act.

Chapter II

REGULATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINICS

3. Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics. On and from the commencement of this Act. -

(1) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic unless registered under this Act, shall conduct or associate with, or help in conducting activities relating to pre-natal diagnostic techniques;

(2) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall employ or cause to be employed any person who does not possess the prescribed qualifications;

(3) no medical geneticist, gynaecologist, paediatrician, registered medical practitioner or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person, any pre-natal diagnostic techniques at a place other than a place registered under this Act.

Chapter III

REGULATION OF PRE-NATAL DIAGNOSTIC TECHNIQUES

4. Regulation of pre-natal diagnostic techniques. On and from the commencement of this Act,

(1) no place including a registered Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause(2) and after satisfying any of the conditions specified in clause (3);

(2) no pre-natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely:

i) chromosomal abnormalities;

ii) genetic metabolic diseases;

iii) haemoglobinopathies;

iv) sex-linked genetic diseases;

v) congenital anomalies;

vi) any other abnormalities or diseases as may be specifiedby the Central Supervisory Board;

(3) no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied that any of the following conditions are fulfilled, namely:-

i) age of the pregnant woman is above thirty-five years;

ii) the pregnant woman has undergone two or more spontaneous abortions or foetal loss;

iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals;

iv) the pregnant woman has a family history of mental retardation or physical deformities such as spasticity or any other genetic disease;

v) any other condition as may be specified by the Central Supervisory Board;

(4) no person, being a relative or the husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purpose specified in clause (2).

5. Written consent of pregnant woman and prohibition of communicating the sex of foetus.

(1) No person referred to in clause (2) of Section 3 shall conduct the pre-natal diagnostic procedure unless -

a) he has explained all known side and after effects of such procedures to the pregnant woman concerned;

b) he has obtained in the prescribed form her written consent to undergo such procedures in the language which she understands; and

c) a copy of her written consent obtained under clause (b) is given to the pregnant woman.

(2) No person conducting pre-natal diagnostic procedures shall communicate to the pregnant woman concerned or her relatives the sex of the foetus by words, signs or in any other manner.

6. Determination of sex prohibited. On and from the commencement of this Act,

(a) no Geretic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus;

(b) no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultrasonography for the purpose of determining the sex of a foetus.

Chapter - IV

CENTRAL SUPERVISORY BOARD

7. Constitution of Central Supervisory Board.

1) The Central Government shall constitute a Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this Act.

2) The Board shall consist of -

a) the Minister in charge of the Ministry or Department of Family Welfare, who shall be the Chairman, ex officio;

b) the Secretary to the Government of India in charge of the Department of Family Welfare, who shall be the Vice-Chairman, ex officio;

c) two members to be appointed by the Central Government to represent the Ministries of Central

Government in charge of Woman and Child Development and of Law and Justice, ex officio;

(d) the Director General of Health Services of the Central Government, ex officio;

(e) ten members to be appointed by the Central Government, two each from amongst -

(i) eminent medical geneticists; (ii) eminent gynaecologists and obstetricians; (iii) eminent paediatricians; (iv) eminent social scientists; and (v) representatives of women welfare organisations;

(f) three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;

(g) four members to be appointed by the Central Government by rotation to represent the States and the Union territories, two in the alphabetical order and two in the reverse alphabetical order:

Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory;

(h) an officer, not below the rank of a Joint Secretary or equivalent of the Central Government, in charge of Family Welfare, who shall be the Member-Secretary, ex-officio.

8. Term of office of members.

(1) The term of office of a member, other than an ex-officio member, shall be -

(a) in case of appointment under clause (e) or clause (f) of sub-section (2) of Section 7, three years; and

(b) in case of appointment under clause(g) of the said sub-section, one year.

(2) If a casual vacancy occurs in the office of any other members, whether by reason of his death, resignation or

inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

(3) The Vice-Chairman shall perform such functions, as may be assigned to him by the Chairman from time to time.

(4) The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

9. Meetings of the Board.

(1) The Board shall meet at such times and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations:

Provided that the Board shall meet at least once in six months.

(2) The Chairman and in his absence the Vice-Chairman shall preside at the meetings of the Board.

(3) If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Members other than ex-officio members shall receive such allowance, if any, from the Board as may be prescribed.

10. Vacancies, etc., not to invalidate proceedings of the Board. No act or proceeding of the Board shall be invalid merely by reason of -

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

11. Temporary association of persons with the Board for particular purposes.

(1) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advise it may desire in carrying out any of the provisions of this Act.

(2) A person associated with it by the Board under sub-section(1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.

12. Appointment of Officers and other employees of the Board.

(1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Board may, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Central Government.

(2) Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations.

13. Authentication of orders and other instruments of the Board.

All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised

by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorised in like manner in this behalf.

14. Disqualifications for appointment as member.

A person shall be disqualified for being appointed as a member if, he -

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has, in the opinion of the Central Government, been associated with the use or promotion of pre-natal diagnostic technique for determination of sex.

15. Eligibility of member for reappointment.

Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for reappointment as such member.

16. Functions of the Board.

The Board shall have the following functions, namely:-

(i) to advise the Government on policy matters relating to use of pre-natal diagnostic techniques;

(ii) to review implementation of the Act and the rules made thereunder and recommend changes in the said Act and rules to the Central Government;

(iii) to create public awareness against the practice of pre-natal determination of sex and female foeticide;

(iv) to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics;

(v) any other functions as may be specified under the Act.

Chapter - V

APPROPRIATE AUTHORITY AND ADVISORY COMMITTEE

17. Appropriate Authority and Advisory Committee.

(1) The Central Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for each of the Union territories for the purposes of this Act.

(2) The State Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for the whole or part of the State for the purposes of this Act having regard to the intensity of the problem of pre-natal sex determination leading to female foeticide.

(3) The officers appointed as Appropriate Authorities under sub-section(1) or sub-section(2) shall be, -

(a) when appointed for the whole of the State or the Union territory, of or above the rank of the Joint Director of Health and Family Welfare; and

(b) when appointed for any part of the State or the Union territory, of such other rank as the State Government or the Central Government, as the case may be, may deem fit.

(4) The appropriate Authority shall have the following functions, namely:

(a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic;

(b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;

(c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action; and

(d) to seek and consider the advise of the Advisory Committee, constituted under sub-section(5), on application for registration and on complaints for suspension or cancellation of registration.

(5) The Central Government or the State Government, as the case may be, shall constitute an Advisory Committee for each Appropriate Authority to aid and advise the Appropriate Authority in the discharge of its functions, and shall appoint one of the members of the Advisory Committee to be its Chairman.

(6) The Advisory Committee shall consist of -

(a) three medical experts from amongst gynaecologists, obstetricians, pediatricians and medical geneticists;

(b) one legal expert;

(c) one officer to represent the department dealing with information and publicity of the State Government or the Union territory, as the case may be;

(d) three eminent social workers of whom not less than one shall be from amongst representatives of women's organizations.

(7) No person who, in the opinion of the Central Government or the State Government, as the case may be, has been associated with the use or promotion of prenatal diagnostic technique for determination of sex shall be appointed as a member of the Advisory Committee.

(8) The Advisory Committee may meet as and when it thinks fit or on the request of the Appropriate Authority for consideration of any application for registration or any complaint for suspension or cancellation of registration and to give advise thereon:

Provided that the period intervening between any two meetings shall not exceed the prescribed period.

(9) The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed.

Chapter - VI

REGISTRATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES AND GENETIC CLINICS

18. Registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics.

(1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic after the commencement of this Act unless such Centre, Laboratory or Clinic is duly registered separately or jointly under this Act.

(2) Every application for registration under sub-section (1), shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3) Every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged, either partly or exclusively, in counselling or conducting pre-natal diagnostic techniques

for any of the purposes mentioned in Section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.

(4) Subject to the provisions of Section 6, every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged in counselling or conducting pre-natal diagnostic techniques shall cease to conduct any such counselling or technique on the expiry of six months from the date of commencement of this Act unless such Centre, Laboratory or Clinic has applied for registration and is so registered separately or jointly or till such application is disposed of, whichever is earlier.

(5) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the Appropiate Authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescribed.

19. Certificate of Registration.

(1) The Appropiate Authority shall, after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder and having regard to the advise of the Advisory Committee in his behalf, grant a certificate of registration in the prescribed form jointly or separately to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be .

(2) If, after the inquiry and after giving an opportunity of being heard to the applicant and having regard to the advise of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act or the rules, it shall, for reasons to be recorded in writing, reject the application for registration.

(3) Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.

(4) The certificate of registration shall be displayed by the registration Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

20. Cancellation or Suspension of Registration.

(1) The Appropriate Authority may suo moto, or on complaint, issue a notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that there has been a breach of the provisions of this Advisory Committee, the Appropriate Authority is satisfied that there has been a breach of the provisions of the Act or the rules, it may, without prejudice to any criminal action that it may take against such Centre, Laboratory or Clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).

21. Appeal.

The Genetic Counselling Cenetre, Genetic Lsaboratory or Genetic Clinic may, within thirty days from the date of receipt of the

order of suspension or cancellation of registration passed by the Appropriate Authority under Section 20, prefer an appeal against such order to -

(i) the Central Government, where the appeal is against the order of the Central Appropriate Authority; and

(ii) the State Government, where the appeal is against the order of the State Appropriate Authority, in the prescribed manner.

Chapter - VII

OFFENCES AND PENALTIES

22. Prohibition of Advertisement relating to pre-natal determination of sex and punishment for contravention.

(1) No person, organisation, Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall issue or cause to be issued any advertisement in any manner regarding facilities of the pre-natal determination of sex available at such Centre, Laboratory, Clinic or any other place.

(2) No person or organisation shall publish or distribute or cause to be published or distributed any advertisement in any manner regarding facilities of pre-natal determination of sex available at any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other place.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

Explanation -

For the purposes of this section, "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas.

23. Offences and Penalties.

(1) Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic and renders his professional or technical services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or rules made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

(2) The name of the registered medical practitioner who has been convicted by the court under sub-section(1), shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence.

(3) Any person who seeks the aid of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or of a medical geneticist, gynaecologist or registered medical practitioner for conducting pre-natal diagnostic techniques on any pregnant woman (including such woman unless she was compelled to undergo such diagnostic techniques) for purposes other than those specified in clause(2) of Section 4, shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

24. Presumption in the case of conduct of pre-natal diagnostic techniques.

Notwithstanding anything in the Indian Evidence Act, 1872 (1 of 1872), the court shall presume unless the contrary is proved

that the pregnant woman has been compelled by her husband or the relative to undergo pre-natal diagnostic technique and such person shall be liable for abetment of offence under sub-section(3) of Section 23 and shall be punishable for the offence specified under that section.

25. Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided.

Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

26. Offences by Companies.

(1) Where any offence, punishable under this Act has been committed by a company, every person who, at the time of the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section(1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such

director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purposes of this section, -

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

27. Offence to be cognizable, non-bailable and non-compoundable.

Every offence under this Act shall be cognizable, non-bailable and non-compoundable.

28. Cognizance of offences.

(1) No Court shall take cognizance of an offence under this Act except on a complaint made by -

(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or the State Government, as the case may be, or the Appropriate Authority; or

(b) a person who has given notice of not less than thirty days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.

Explanation. - For the purpose of this clause, "person" includes a social organisation.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of sub-section(1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

Chapter - VIII

MISCELLANEOUS

29. Maintenance of records.

(1) All records, charts, forms, reports, consent letters and all other documents required to be maintained under this Act and the rules shall be preserved for a period of two years or for such period as may be prescribed:

Provided that, if any criminal or other proceedings are instituted against any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the records and all other documents of such Centre, Laboratory or Clinic shall be preserved till the final disposal of such proceedings.

(2) All such records shall, at all reasonable times, be made available for inspection to the Appropriate Authority or to any other person authorised by the Appropriate Authority in this behalf.

30. Power to Search and Seize Records, etc.

(1) If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, such Authority or any officer authorised thereof in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such authority or officer considers necessary; such Genetic Counselling Centre; Genetic Laboratory or Genetic Clinic and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

31. Protection of action taken in good faith.

No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorised by the Central or State Government, or by the Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

32. Power to make rules.

(1) The Central Government may make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice, to the generality of the foregoing power, such rules may provide for -

(i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre,Genetic Laboratory or Genetic Clinic under clause (1) of Section 3;

(ii) the form in which consent of a pregnant woman has to be obtained under Section 5;

(iii) the procedure to be followed by the members of the Central Supervisory Board in the discharge of their functions under sub-section (4) of Section 8;

(iv) allowances for members other than *ex officio* members admissible under sub-section (5) of Section 9;

(v) the period intervening between any two meetings of the Advisory Committee under the proviso to sub-section (8) of Section 17;

(vi) the terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee under sub-section (9) of Section 17;

(vii) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section(2) of Section 18;

(viii) the facilities to be provided, equipment and other standards to be maintained by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under sub-section(5) of Section 18;

(ix) the form in which a certificate of registration shall be issued under sub-section(1) of Section 19;

(x) the manner in which and the period after which a certificate of registration shall be renewed and the fee payable for such renewal under sub-section(3) of Section 19;

(xi) the manner in which an appeal may be preferred under Section 21;

(xii) the period upto which records, charts, etc., shall be preserved under sub-section(1) of Section 29;

(xiii) the manner in which the seizure of documents, records, objects, etc., shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody such documents, records or objects were seized under sub-section(1)of Section 30;

(xiv) any other matter that is required to be, or may be, prescribed.

33. Power to make regulations.

The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for-

(a) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) and Section 9;

(b) the manner in which a person may be temporarily associated with the Board under sub-section (1) of Section 11;

(c) the method of appointment, the conditions of service and the scales of pay and allowances of the officer and other employees of the Board appointed under Section 12;

(d) generally for the efficient conduct of the affairs of the Board.

34. Rules and Regulations to be laid before Parliament.

Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Annexure 4

MINISTRY OF HEALTH AND FAMILY WLFARE

(Department of Family Welfare)

NOTIFICATION

New Delhi, the Ist January, 1996

G.S.R. 1 (E): In exercise of the powers conferred by section 32 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement: (1) These rules may be called the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions: In these rules, unless the context otherwise requires,-

(a) "Act" means The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994);

(b) "Employee" means a person working in or employed by a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic, and includes those working on part-time, contractual, consultancy, honorary or on any other basis;

(c) "Form" means a Form appended to these rules:

(d) "Schedule" means a Schedule appended to these rules;

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(e) "Section" means a section of the Act ;

(f) words and expressions used herein and not defined in these rules but defined in the Act, shall has the meanings, respectively, assigned to them in the Act.

3. Minimum requirements:

(1) The minimum qualifications of the employees, the minimum equipment and minimum place for a Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic shall be as specified in Schedules I, II and III.

(2) Where an institute, hospital, nursing home, or any place, by whatever name called, provides services jointly of Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic, or any combination of these, it shall conform to the requirements as specified in Schedules I, II and III.

4. Registration of Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic:

(1) An application or registration shall be made to the Appropriate Authority, in duplicate, in Form A.

(2) The Appropriate Authority, or any person in his office authorised in this behalf, shall acknowledge receipt of the application for registration, in the acknowledgement slip provided at the bottom of Form A, immediately if delivered at the office of the Appropriate Authority, or not later than the next working day if received by post.

5. Application Fee: (1) Every application for registration under rule 4 shall be accompanied by an application fee of :-

(a) Rs. 2000.00 for Genetic Counselling Centre;

(b) Rs. 3000.00 for Genetic Laboratory;

(c) Rs. 3000.00 for Genetic Clinic; and

(d) Rs. 4000.00 for an institute, hospital, nursing home, or any place providing jointly the services of a Genetic Conselling

Centre, Genetic Laboratory and Genetic Clinic or any combination of such Centre, Laboratory or Clinic.

(2) The application fee shall be paid by a demand draft drawn in favour of the Appropriate Authority, on any scheduled bank located at the headquarters of the Appropriate Authority.

6. Certificate of registration:

(1) The Appropriate Authority shall, after making such enquiry and after satisfying itself that the applicant has complied with all the requirements, place the application before the Advisory Committee for its advice.

(2) Having regard to the advice of the Advisory Committee the Appropriate Authority shall grant a certificate of registration, in duplicate, in Form B to the applicant. One copy of the certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic at a conspicuous place at its place of business.

Provided that the Appropriate Authority may grant a certificate of registration to a Genetic Laboratory or a Genetic Clinic to conduct one or more specified pre-natal diagnostic tests or procedures, depending on the availability of place, equipment and qualified employees, and standards maintained by such laboratory or clinic.

(3) If, after enquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of the Act and these rules, it shall, for the reasons to, record in writing, reject the application for registration and communicate such rejection to the applicant as specified in Form C.

(4) An enquiry under sub-rule (1), including inspection at the premises of the Genetic Counselling Centre, Genetic

Laboratory or Genetic Clinic, shall be carried out only after due notice is given to the applicant by the Appropriate Authority.

(5) Grant of certificate of registration or rejection of application for registration shall be communicated to the applicant as specified in Form B or Form C, as the case may be, within a period of ninety days from the date of receipt of application for registration.

(6) The certificate of registration shall be nontransferable. In the event of change of ownership or change of management or on ceasing to function as a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, both copies of the certificate of registration shall be surrendered to the Appropriate Authority.

(7) In the event of change of ownership or change of management of the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the new owner or manager of such Centre, Laboratory or Clinic shall apply afresh for grant of certificate of registration.

7. Validity of registration: Every certificate of registration shall be valid for a period of five years from the date of its issue.

8. Renewal of registration:

(1) An application for renewal of certification of registration shall be made in duplicate in Form A, to the Appropriate Authority thirty days before the date of expiry of the certificate of registration. Acknowledgement of receipt of such application shall be issued by the Appropriate Authority in the manner specified in sub-rule (2) of rule 4.

(2) The Appropriate Authority shall, after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of the Act and these rules and having regard to the advice of the Advisory Committee in this behalf, renew the certificate of registration, as specified in Form B, for a further period of five years from the date of expiry of the certificate of registration earlier granted.

(3) If, after enquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of the Act and these rules, it shall, for reasons to be recorded in writing, reject the application for renewal of certificate of registration and communicate such rejection to the applicant as specified in Form C.

(4) The fees payable for renewal of certificate registration shall be one half of the fees provided in sub-rule (1) of rule 5.

(5) On receipt of the renewed certificate of registration in duplicate or on receipt of communication of rejection of application for renewal, both copies of the earlier certificate of registration shall be surrendered immediately to the 'Approripate Authority by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic.

(6) In the event of failure of the Appropriate Authority to renew the certificate of registration or to communicate rejection of application for renewal of registration within a period of ninety days from the date of receipt of application for renewal of registration, the certificate of registration shall be deemed to have been renewed.

9. Maintenance and preservation of records:

(1) Every Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic shall maintain a register showing, in serial order, the names and addresses of the women given genetic counselling, subjected to pre-natal diagnostic procedures or pre-natal diagnostic tests, the names of their husbands or fathers and the date on which they first reported for such counselling, procedure or test.

(2) The record to be maintained by every Genetic Counselling Centre, in respect of each woman counselled, shall be as specified in Form D.

(3) The record to be maintained by every Genetic Laboratory, in respect of each woman subjected to any pre-natal diagnostic test, shall be as specified in Form E.

(4) The record to be maintained by every Genetic Clinic, in respect of each woman subjected to any prenatal diagnostic procedure, shall be as specified in Form F.

(5) The Appropriate Authority shall maintain a permanent record of applications for grant or renewal of certificate of registration as specified in Form H. Letters of intimation of every change of employee, place, address and equipment installed shall also be preserved as permanent records.

(6) All case related-records, forms of consent, laboratory results, microscopic pictures, sonographic plates or slides, recommendations and letters shall be preserved by the Genetic Counselling Centre Genetic Laboratory or Genetic Clinic for a period of two years from the date of completion of counselling, pre-natal diagnostic procedure or pre-natal diagnostic test, as the case may be . In the event of any legal proceedings, the records shall be preserved till the final disposal of legal proceedings, or till the expiry of the said period of two years, whichever is later.

(7) In case the Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic maintains records on computer or other electronic equipment a printed copy of the record shall be taken and preserved after authentication by a person responsible for such record.

10. Conditions for conducting pre-natal diagnostic procedures:

(1) Before conducting any pre-natal diagnostic procedure, a written consent, as specified in Form G, in a language the pregnant woman understands, shall be obtained from her:

Provided that where a Genetic Clinic has taken a sample of any body tissue or body fluid and sent it to a Genetic Laboratory for analysis or test, it shall not be necessary for the Genetic Laboratory to obtain a fresh consent in Form G.

(2) All the State Governments and Union territories may issue translation of Form G in languages used in the State or Union territory and where no official translation in a language understood by the pregnant woman is available, the Genetic Clinic may translate Form G into a language she understands.

11. Facilities for inspection: Every Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic shall afford reasonable facilities for inspection of the place, equipment and records to the Appropriate Authority or to any other person authorised by the Appropriate Authority in this behalf.

12. Procedure for search and seizure:

(1) The Appropriate Authority or any officer authorised in this behalf may enter and search at all reasonable time any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, in the presence of two or more independent and respectable persons, for the purposes of section 30.

(2) A list of any document, record, register, book, pamphlet, advertisement or any other material object found in the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and seized shall be prepared in duplicate at the place of effecting the seizure. Both copies of such list shall be signed on every page by the Appropriate Authority or the officer authorised in this behalf and by the witnesses to the seizure:

Provided that the list may be prepared, in the presence of the witnesses, at a place other than the place of seizure if, for reasons to be recorded in writing, it is not practicable to make the list at the place of effecting the seizure.

(3) One copy of the list referred to in sub-rule (2) shall be handed over, under acknowledgement, to the person from whose custody the document, record, register, book, pamphlet, advertisement or any other material object have been seized:

Provided that a copy of the list of such document, record, register, book, pamphlet, advertisement or other material object seized may be delivered under acknowledgment, or sent by registered post to the owner or manager of the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, if no person acknowledging custody of the document, record, register, book, pamphlet, advertisement

or other material object seized is available at the place of effecting the seizure.

(4) If any material object seized is perishable in nature, the Appropriate Authoriy, or the officer authorised in this behalf shall make arrangements promptly for sealing, identification and preservation of the material object and also convey it to a facility for analysis or test, if analysis or test be required:

Provided that the refrigerator or other equipment used by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic for preserving such perishable material object may be sealed until such time arrangements can be made for safe removal of such perishable material object and in such eventuality, mention of keeping the material object seized on the premises of the Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall be made in the list of seizure.

(5) In the case of non-completion of search and seizure operation, the Appropriate Authority or the officer authorized in this behalf may make arrangements, by way of mounting a guard or sealing of the premises of the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, for safe keeping, listing and removal of documents, records, book or any other material object to be seized, and to prevent any tampering with such documents, records, books or any other material object.

13. Intimation of changes in employees, place or equipment: Every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall intimate every change of employee, place, address and equipment installed, to the Appropriate Authority within a period of thirty days of such change.

14. Conditions for analysis or test and pre-natal diagnostic procedures:

(1) No Laboratory shall accept for analysis or test any sample, unless referred to it by a Genetic Clinic.

(2) Every pre-natal diagnostic procedure shall invariably be immediately preceded by locating the foetus and placenta through ultrasonography, and the pre-natal diagnostic procedure shall be done under direct ultrasonographic

monitoring so as to prevent any damage to the foetus and placenta.

15. Meetings of the Advisory Committees: The intervening period between any two meetings of Advisory Committees constituted under sub-section (5) of section 17 to advise the appropriate Authority shall not exceed sixty days.

16. Allowances to members of the Central Supervisory Board:

(1) The ex-officio members, and other Central and State Government officers appointed to the Board will be entitled to Travelling Allowance and Daily Allowance for attending the meetings of the Board as per the Travelling Allowances rules applicable to them.

(2) The non-official members appointed to, and Members of Parliament elected to the Board will be entitled to Travelling Allowance and Daily Allowance for attending the meetings of the Board as admissible to non - officials and Member of Parliament, as the case may be, under the Travelling Allowances rules of the Central Government.

17. Public Information:

(1) Every Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic shall prominently display on its premises a notice in English and in the local language or languages for the information of the public, to the effect that disclosure of the sex of the foetus is prohibited under law.

(2) At least one copy each of the Act and these rules shall be available on the premises of every Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic, and shall be made available to the clientele on demand for perusal.

(3) The Appropriate Authority, the Central Government, the State Government, and the Government/Administration of the Union territory may publish periodically lists of registered Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics and findings from the reports and other information in their possession, for the information of the public and for use by the experts in the field.

[No. 23011/59/94 - PLY]
K.S. Sugathan, Jt. Secy.

SCHEDULE I

[See rule 3 (1)]

REQUIREMENTS FOR REGISTRATION OF A GENETIC COUNSELLING CENTRE

A. PLACE

A room with an area of seven (7) square metres.

B. EQUIPMENT

Educational charts/models.

C. EMPLOYEES :

Any one of the following :-

(1) Medical Geneticist.

(2) Gynaecologist with 6 months experience, in genetic counselling, or having completed 4 weeks' training in genetic counselling.

(3) Paediatrician with 6 months experience in genetic counselling, or having completed 4 weeks' training in genetic counselling.

SCHEDULE II

[See rule 3(1)]

REQUIREMENTS FOR REGISTRATION OF A GENETIC LABORATORY

A. PLACE

A room with adequate space for carrying out tests.

B. EQUIPMENT:

These are categorised separately for each of the undermentioned studies.

Chromosomal Studies:

(1) Laminar flow hood with ultraviolet and fluorescent light or other suitable culture hood.

(2) Photo-microscope with fluorescent source of light.

(3) Inverted microscope

(4) Incubator and oven

(5) Carbon dioxide incubator or closed system with 5% CO_2 atmosphere.

(6) Autoclave.

(7) Refrigerator.

(8) Water bath.

(9) Centrifuge.

(10) Vortex mixer.

(11) Magnetic strirrer.

(12) pH meter.

(13) A sensitive balance (Preferably electronic) with sensitivity of 0.1 miligram.

(14) Double distillation apparatus (glass).

Biochemical studies:

(requirements according to tests to be carried out)

1) Laminar flow hood with ultraviolet and fluorescent light or other suitable culture hood.

2) Inverted microscope.

3) incubator and oven

4) Carbon dioxide incubator or closed system with 5% CO_2 atmosphere.

5) Autoclave.

6) Refrigerator.

7) Water bath

8) Centrifuge

9) Electrophoresis apparatus and power supply.

10) Chromatography chamber.

11) Spectro-photometer and Elisa reader or Radio-immunoassay system (with gamma beta-counter) or fluorometer for various biochemical tests.

12) Vortex mixer.

13) Magnetic stirrer.

14) pH meter.

15) A sensitive balance (preferably electronic) with sensitivity of 0.1 miligram.

16) Double distillation apparatus (glass).

17) Liquid nitrogen tank.

Molecular studies:

1) Inverted microscope.

2) Incubator.

3) Oven.

4) Autoclave.

5) Refrigerators (4 degree and minus 20 degree Centigrade)

6) Water bath.

7) Microcentrifuge

8) Electrophoresis appratus and power supply.

9) Vortex mixer

10) Magnetic Stirrer.

11) pH meter.

12) A sensitive balance (preferably electronic) with sensitivity of 0.1 miligram.

13) Double distillation apparatus (glass)

14) P.C.R. machine

15) Refrigerated centrifuge.

16) U.V. Illuminator with photographic attachment or other documentation system.

17) Precision micropipettes.

C. EMPLOYEES :

1) A Medical Geneticist

2) A laboratory technician having a B.Sc. Degree in Biological Sciences or a degree or a diploma in medical laboratory course with at least one years experience in conducting appropriate pre-natal diagnostic tests.

SCHEDULE III

[See rule 3(1)]

REQUIREMENTS FOR REGISTRATION OF A GENETIC CLINIC

A. PLACE

A room with an area of twenty (20) square metres with appropriate aseptic arrangements.

B. EQUIPMENT

(1) Equipment and accessories necessary for carrying out clinical examination by an obstertician/gynaecologist.

(2) Equipment, accessories, materials and other facilities required for operations envisaged in the Act.

*(a) An ultra-sonography machine.

*(b) Appropriate catheters and equipment for carrying out chorionic villi aspirations per vagina or per abdomen.

*(c) Appropriate sterile needles for amniocentesis or cordocentesis.

(d) A suitable foetoscope with appropriate accessories for foetoscopy, foetal skin or organ biopsy or foetal blood sampling shall be optional.

(3) Equipment for dry and wet sterilization.

(4) Equipment for carrying out emergency procedures such as evacuation of uterus or resuscitation in case of need.

C. EMPLOYEES

(1) A gynaecologist with adequate experience in pre-natal diagnostic procedures (should have performed atleast 20 procedures under supervision of a gynaecologist experienced in the procedure which is going to be carried out, for example, chorionic villi biopsy, amniocentesis, cordocentesis and others as indicated at B above).

(2) A Radiologist or Registered Medical Practitioner for carrying out ultrasonography. The required experience shall be 100 cases under supervision of a similarly qualified person experienced in these techniques.

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* These constitute the minimum requirement of equipment for conducting the relevant procedure.

FORM A

[See rules 4(1) and 8(1)]

(TO BE SUBMITTED IN DUPLICATE)

WITH SUPPORTING DOCUMENTS AS ENCLOSURES, ALSO IN DUPLICATE

FORM OF APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION OF A GENETIC COUNSELLING CENTRE/GENETIC LABORATORY/GENETIC CLINIC*

1. Name of the applicant (specify Sh./Smt./Kum./Dr.)
2. Address of the applicant
3. Capacity in which applying (specify owner/partner/ managing director/other-to be stated)
4. Type of facility to be registered (specify Genetic Counselling Centre/Genetic Laboratory/ Genetic Clinic/any combination of these)
5. Full name and address/ addresses of Genetic Counselling Centre/Genetic Laboratory/ Genetic Clinic with Telephone/Telegraphic Telex/ Fax/E-mail number.

6. Type of ownership and organisation (specify individual ownership/partnership/ company/co-operative/any other). In case of type of organisation other than individual ownership, furnish copy of articles of association and names and addresses of other persons responsible for management, as enclosure.

7. Type of Institution (Govt. hospital/ Municipal Hospital/ Public Hospital/Private Hospital/ Private Nursing Home/ Private Clinic/Private Laboratory/any other to be stated.

8. Specific prenatal diagnostic procedures/tests for which approval is sought (for example amniocentesis, chorionic villi aspiration/chromosomal/ biochemical/molecular studies etc).

   Leave blank if registration sought for Genetic Councelling Centre only

9. (a) Space available for the Counselling Centre/Clinic Laboratory give total work area excluding lobbies, waiting rooms, stairs etc and enclose plan.

10. Equipment available with the make and model of each equipment. List to be attached on a separate sheet.

11. a) Facilities available in the Counselling Centre.

    b) Whether facilities are available in the Laboratory/ Clinic for the following tests;

    (i) Ultrasound

    (ii) Amniocentesis

    (iii) Chorionic villi aspiration

    (iv) Foetoscopy

    (v) Foetal biopsy

    (vi) Cordocentesis

    (c) Whether facilities are available in the Laboratory/ Clinic for the following:

    i) Chromosomal studies

    ii) Biochemical studies

    iii) Molecular studies

12. Names, qualifications, experience and registration number of employees. May be furnished as an enclosure (Refer Schedules I, II or III)

13. State whether the Genetic Counselling Centre, Genetic Laboratory/Genetic Clinic*

qualifies for registration in terms of minimum requirements laid down in Schedule I, II and III and if not, reasons therefor.

14. For renewal applications only :

    a) Registration No.

    b) Date of issue and date of expiry of existing certificate of registration.

15. List of Enclosures :
    Please attach a list of enclosures giving the supporting documents enclosed to this application.

(.....)
Name and signature of applicant

Date:

Place:

DECLARATION

i) I, Sh./Smt. Kum./Dr. ..... son/ daughter/wife of .... aged ..... years resident of ....

hereby declare that I have read and understood the Pre-natal Diagnostics Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994) and the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1995.

ii) I also undertake to explain the said Act and Rules to all employees of the Genetic Counselling Centre/ Genetic Laboratory/Genetic Clinic in respect of which registration is sought and to ensure that Act and rules are fully complied with.

(.....)

Name and signature of applicant

Place: Date:

---

*Strike out whichever is not applicable or not necessary. All enclosures are to be authenticated by signature of the applicant.

ACKNOWLEDGEMENT

[See rules 4 (2) and 8 (1)]

The application in Form A in duplicate or grant*/renewal* of registration of Genetic Counselling Centre*/ Genetic Laboratory*/Genetic Clinic* by .....

.....

(Name and address of applicant) has been received by the Appropriate Authority .....

..... on

..... (date).

* The list of enclosures attached to the application in Form A has been verified with the enclosures submitted and found to be correct.

OR

* On verification it is found that following documents mentioned in the list of enclosures are not actually enclosed.

This acknowledgment does not confer any rights on the applicant for grant or renewal of registration

(.....)

Signature and Designation of Appropriate Authority, or authorized person in the office of the Appropriate Authority.

Date:

SEAL

---

*Strike out whichever is not applicable or not necessary.

ORIGINAL
DUPLICATE FOR DISPLAY

FORM B

[See rules 6(2), 6(5) and 8(2)]

CERTIFICATE OF REGISTRATION

(To be issued in duplicate)

1. In exercise of the powers conferred under section 19(1) of the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994), the Appropriate Authority..... hereby grants registration to the Genetic Counselling Centre/ Genetic Laboratory/ Genetic Clinic named below for purposes of carrying out Genetic Counselling/ Prenatal Diagnostic Procedures/ Prenatal Diagnostic Tests as defined in the aforesaid Act for a period of five years ending on.....

2. This registration is granted subject to the aforesaid Act and Rules thereunder, and any contravention thereof shall result in suspension or cancellation of this Certificate of Registration before the expiry of the said period of five years.

A. Name and address of the Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic

B. Name of Application for registration

C. Prenatal diagnostic procedures approved for (genetic clinic)

   i) Ultrasound

   ii) Amniocentesis

   iii) Chorionic Villi biopsy

   iv) Foetoscopy

v) Foetal skin or organ biopsy

vi Cordocentesis

vii) Any other (specify)

D. Prenatal diagnostic tests approved (for Genetic Laboratory)

i) Chromosomal studies

ii) Biochemical studies

iii) Molecular studies

3. Registration No. allotted

4. For renewed Certificate of Registration only

Period of validity of earlier Certificate From.....

To ..... of Registration.

Signature, name and designation of the Appropriate Authority.....

Date :

SEAL

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* Strike out whichever is not applicable or necessary.

DISPLAY ONE COPY OF THIS CERTIFICATE AT A CONSPICUOUS PLACE AT THE PLACE OF BUSINESS.

FORM C

[See rules 6(3), 6(5) and 8(3)]

REJECTION OF APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION

In exercise of the powers conferred under section 19(2) of the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 the Appropriate Authority ..... hereby rejects the application for grant/ renewal of registration of the Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic named below for the reasons stated.

Name and Address of the Genetic Counselling : Centre*/Genetic Laboratory*/Genetic Clinic*

Name of Applicant who has applied for registration:

Reasons for rejection of application for registration:

Signature, name and designation of Appropriate Authority

Date :

SEAL

* Strike out whichever is not applicable or necessary.

FORM D

[See rule 9(2)]

NAME, ADDRESS AND REGISTRATION NO. OF GENETIC COUNSELLING CENTRE

RECORD TO BE MAINTAINED BY THE GENETIC COUNSELLING CENTRE

1. Patient's name
2. Age
3. Husband's/Father's name
4. Full address with Tel. No. if any
5. Referred by (Full name and address of Doctor(s) with registration No.(s) (Referral note to be preserved carefully with case papers)
6. Last menstrual period/.....weeks of pregnancy
7. History of genetic/medical disease in the family (specify)

   Basis of diagnosis:

   a) Clinical

   b) Bio-Chemical

   c) Cyto-genetic

   d) Other (e.g. radiological)

8. Indication for prenatal diagnosis*

A. Previous child/children with:

   i) Chromosomal disorders

   ii) Metabolic disorders

   iii) Congenital anomaly

   iv) Mental retardation

   v) Haemoglobinopathy

vi) Sex linked disorders

vii) Any other (specify)

B. Advanced maternal age (35 years)

C. Mother/father/sibling has genetic disease (specify)

D. Others (specify)

9. Procedure advised*

i) Ultrasound

ii) Amniocentesis

iii) Chorionic Villi biopsy

iv) Foetoscopy

v) Foetal skin or organ biopsy

vi) Cordocentesis

vii) Any other (specify)

10. Laboratory tests to be carried out

i) Chromosomal studies

ii) Biochemical studies

iii) Molecular studies

11. Result of prenatal diagnosis: Normal/Abnormal
If abnormal give details.

12. Was MTP advised?

13. Name and address of Genetic Clinic* to which patient referred.

14. Dates of commencement and completion of genetic counselling

Name, Signature and Registration No. of the Medical Geneticist/Gynaecologist/Paediatrician.

Date:

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* Strike out whichever is not applicable or not necessary.

FORM E

[See rule 9(3)]

NAME, ADDRESS AND REGISTRATION NO. OF GENETIC LABORATORY
RECORD TO BE MAINTAINED BY THE GENETIC LABORATORY

1. Patient's name
2. Age
3. Husband's/Father's name
4. Full address with Tel. No., if any
5. Referred by/sample sent by (full name and address of Genetic Clinic (Referral note to be preserved carefully with case paper).
6. Type of sample: Maternal blood/ Chorionic villus sample/amniotic fluid/Foetal blood or other foetal tissue (Specify)
7. Specify indication for prenatal diagnosis

A) Previous Child/children with:

   i) Chromosomal disorders

   ii) Metabolic disorders

   iii) Malformation(s)

   iv) Mental retardation

   v) Hereditary haemolytic anaemia

   vi) Sex linked disorder

   vii) Any other (specify)

(B) Advanced maternal age (35 years)

C) Mother/father/sibling has genetic disease (specify)

D) Other (specify)

8. Laboratory tests carried out (give details)

   i) Chromosomal studies

   ii) Biochemical studies

   iii Molecular studies

9. Result of pre-natal diagnosis: Normal/Abnormal
   If abnormal (give details)

10. Date(s) on which tests carried out

The results of the pre-natal diagnostic tests were conveyed to ..... on .....

Date:

Name, signature and Registration number of the Medical Geneticist

FORM F

[See rule 9(4)]

NAME, ADDRESS AND REGISTRATION NO. OF GENETIC CLINIC

RECORD TO BE MAINTAINED BY THE GENETIC CLINIC

1. Patient's name
2. Age
3. Husband's/Father's name
4. Full Address with Tel. No. if any

5. Referred by (full name and address of doctor(s)/Genetic Counselling Centre (Referral note to be preserved carefully with case papers).

6. Last menstrual period/.....weeks of pregnancy.

7. History of genetic/medical disease in the family (specify)

   Basis of diagnosis:

   a) Clinical

   b) Bio-Chemical

   c) Cyto-genetic

   d) Other (e.g. radiological - specify)

8. Indication for prenatal diagnosis

   A) Previous child/children with:

   i) Chromosomal disorders

   ii) Metabolic disorders

   iii) Congenital anomaly

   iv) Mental retardation

   v) Haemoglobinopathy

   vi) Sex linked disorder

   vii) Any other (specify)

   B) Advanced maternal age (-35 years)

   C) Mother/father/sibling has genetic disease (specify)

   D) Other (specify)

9. Procedure carried out (with name and Registration No. of Gynaecologist/Radiologist/ Registered Medical Practitioner) who performed it.
   i) Ultrasound
   ii) Aminiocentesis
   iii) Chorionic Villi aspiration
   iv) Foetal biopsy
   v) Cordocentesis
   vi) Any other (specify)

10 Any complication of procedure- please specify

11. Laboratory tests recommended
   i) Chromosomal studies
   ii) Biochemical studies
   iii) Molecular studies

12. Result of pre-natal diagnostic procedure and specify abnormality detected, if any. — Normal/abnormal

13) Was MTP advised/conducted

14.) Date(s) on which procedures carried out.

15. Date on which MTP carried out.

16) Date on which consent obtained.

17) The result of pre-natal diagnostic procedure were conveyed to ....on.....

Date:

Place:

Name, signature and Registration number of the Gynaecologist/ Radiologist/Registered Medical Practitioner

---

* Strike out whichever is not applicable or not necessary.

FORM G

[See rule (10)]

FORM OF CONSENT

I ..... wife/daughter of

.....

age ..... years

residing at .....

hereby state that I have been explained fully the probable side effects and after effects of the pre-natal diagnostic.....

Annexure 5

THE DELHI ARTIFICIAL INSEMINATION (HUMAN) BILL, 1995*

To provide for the regulation of donation, sale and supply of human semen and ovum for the purpose of artificial insemination and for matters connected therewith or incidential thereto.

Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Forty-Sixth year of the Republic of India as follows:-

1. Short title, extent, and commencement:

(1) This Act may be called the Delhi Artificial Insemination (Human) Act, 1995.

(2) It extends to the whole of the National Capital Territory of Delhi.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions:

In this Act, unless the context otherwise requires-

a. "Delhi" means the National Capital Territory of Delhi;

b. "Donor" means the donor of semen, in the case of a male and of ovum, in the case of a female;

c. "Government" means the Government of the National Capital Territory of Delhi;

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*Introduced on 07 August 1995, passed on 09 August 1995, assented on 30 November 1996

d. "Government Hospital" means any hospital established or maintained by the Government, or the Municipal Corporation of Delhi, or the New Delhi Municipal Council, performing the function of artificial insemination and includes any other hospital which may be declared by the Government, by notification in the Official Gazette, to be a Government hospital for the purposes of this Act.

e. "Hospital" means any premises including a maternity home, nursing home, hospital or any other place not established or maintained by Government funds, used or intended to be used for storage, supply or artificial insemination of semen.

f. "Qualified Medical practitioner" means a medical practitioner registered in any State or Union Territory in India under a law for the registration of medical practitioner.

g. "Registration" means the registration under Section 3 of this Act and the expression "registered" shall be construed accordingly.

h. "Semen" wherever, it occurs in this Act, means the semen or ovum of male and female human being, as the case may be.

i. "Semen Bank" means any premises used or intended to be used for storage, sale, donation, or supply of semen;

j. "Supervisory Authority" means the Director of Health Services, Government of National Capital Territory of Delhi.

3. Prohibition to Carry on semen bank without registration:

No person shall carry on a semen bank in Delhi unless he has been duly registered in respect of such semen bank and the registration in respect thereof has not been canceled under Section 7 of this Act.

4. Registration of Semen Banks:

1) Every person intending to carry on a semen bank in Delhi shall make, every year, an application for registration or the renewal thereof, to the Supervisory Authority:

Provided that in case of a semen bank which is in existence at the date of the commencement of this Act, an application for registration under this Act, shall be made within three months from the date of such commencement.

2) Every application for registration or renewal of registration shall be made on such date and in such form and shall be accompanied by such fee, as may be prescribed.

5. Certificate of Registration:

1) Subject to the provisions of this Act and the rules made thereunder, the Supervisory Authority shall, on receipt of an application for registration, register the applicant in respect of the semen bank named in the application and issue to him a certificate of registration in the prescribed form:

Provided that the Supervisory Authority may refuse to register the applicant if it is satisfied -

(a) that the applicant or any person employed by him at the semen bank, is not a fit person to carry on or to be employed at the semen bank named in the application; or

(b) that it does not have the qualified staff or equipment to carry out the prescribed tests of the donor recipient or to store the semen; or

(c) that for reasons connected with the situation, the construction, staff or equipment of the semen bank or any premises used in connection therewith, is or are not fit to be used for semen bank or such description as the semen bank mentioned in application or that the semen bank or premises is or are used or to be used for purposes which are, in any way, improper, or undesirable in the case of such semen bank.

6. Punishment for carrying on semen bank without registration:

Whoever contravenes the provisions of section 3 shall be punishable with fine, which may extend to five thousand rupees

and in the case of second or subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees.

7. Cancellation of Registration:

Subject to the provisions of this Act, the Supervisory Authority may, at any time, cancel the registration of a person in respect of any semen bank on any ground which would entitle it to refuse an application for the registration of that person in respect of that semen bank or on the ground that the person has been convicted of an offence under this Act or that any other person has been convicted of such an offence in respect of that semen bank.

8. Notice of refusal or of cancellation of registration and appeals:

1. Before making an order refusing an application for registration or an order cancelling any registration, the Supervisory Authority shall give to the applicant or to the person registered, as the case may be, not less than one month's notice of its intention to make such an order, and every such notice shall state the grounds on which the Supervisory Authority intends to make the order and shall, before making the order, give him (in person or by a representative) an opportunity of showing cause why the order should not be made.

2. If the Supervisory Authority, after giving the applicant or the person registered, an opportunity of showing cause asaforesaid, decides to refuse the application for registration or to cancel the registration, as the case may be, it shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.

3. Any person aggrieved by an order refusing an application for registration or cancelling any registration may, within a month after the date on which the copy of the order was sent to him, appeal to the Government against such order or refusal. The decision of the Government on any such appeal shall be final.

4. No such order shall come into force until after the expiration of a month from the date on which it was made or, where notice of appeal is given against it, until the appeal has been decided or withdrawn.

9. Inspection of semen banks and hospitals:

1 The Supervisory Authority or any officer empowered by it in this behalf may, subject to such general or special orders as may be made by the Government, enter and inspect any premises which are used or which the Supervisory Authority of the officer empowered by it has reasonable cause to believe that such premises may be used for the purpose of semen bank and may also enter Government hospital or any hospital and inspect any records required to be kept thereof in accordance with the provisions of this Act.

2. If any person refuses to allow the Supervisory Authority or the officer empowered by it to enter or inspect any such premises or Government hospital or hospital asaforesaid, to inspect any such records asaforesaid or obstructs the Supervisory Authority or the officer empowered by it in the execution of the powers under this section, he shall be guilty of an offence under this Act.

10. Donor to be tested before allowed to donate:

(1) The semen bank before accepting the semen for artificial insemination shall test the donor for presence of HIV 1 and 2 antibodies by using a highly sensitive ELISA Kit and if found negative, only then, the donor shall be allowed to donate.

Explanation

The expression "HIV 1 and 2, ELISA Kit or ELISA Test" and "HIV" used in this section or in other sections of this Act denote respectively "Human Immune Deficiency Virus Type 1 and Type 2" "Enzyme Linked Immune Sorbent Kit or Enzyme Linked Immune Sorbent Assay Test" and "Human Immune Deficiency Virus".

(2) The donor shall be screened for HIV surface analgen and if found negative, only then, the donor shall be allowed to donate.

(3) The semen bank shall keep complete bio-data, including mark of identification, of the donor.

11. Storage of donated semen before use:

The donated semen shall be stored either by cryo preservation of liquid nitrogen freezing or any other sale method for a period of minimum three months in order to exclude window period of HIV 1 and 2 infection in the donor.

12. Second test on donor before use of donated semen:

At the end of three months a second ELISA Test shall, by the same method, be performed on the donor.

13. Use of donated semen:

If, after conducting of necessary test, the door is found fit, only then, the semen shall be used.

14. Duties of qualified medical practitioner/Government hospitals, etc., performing artificial insemination:

The qualified medical practitioner or Government hospital or hospital or the semen bank performing artificial insemination, as the case may be, shall -

(a) keep complete record of the bio-data including mark of identification of the donor and the recipient of the semen or ovum;

(b) test the recipient for "HIV 1 and 2" and sexually transmitted diseases before performing artificial insemination;

(c) seek the written consent of the husband and the wife, seeking artificial insemination;

(d) seek the written consent of the donor and the recipient and their spouse, in case of requests of semen or ovum from specified donor/recipient;

(e) not segregate the XX or XY Chromosomes for artificial insemination;

Explanation:

The letters "XX" and "XY" used in this clause denote "female sex" and "male sex" respectively;

(f) maintain secrecy about the identity of the donor and the recipient of the semen/ovum;

(g) take the written consent of the recipient for using the semen on the basis of only one ELISA Test being negative for cyro-preservation and liquid nitrogen for semen are not available.

15. Power to call for information or to seize articles:

If the Supervisory Authority has reason to believe that any of the provisions of this Act is being violated, he may call for any information or may seize any article, medicine or any other related things, admission register or other document maintained/kept or found at the place.

16. General provision for punishment of offences:

Whoever contravenes any provision of this Act or of any rule or order or requisition made thereunder shall, if no punishment is provided for the offence, be punishable for the first offence with fine which may extend to five hundred rupees, and for second or subsequent offence with fine which may extend to two thousand rupees.

17. Punishment for contravention of provisions of sections 10, 11, 12, 13 or 14:

Whoever contravenes any of the provisions of sections 10, 11, 12, 13 or 14 of this Act shall be punishable with imprisonment for a term which may extend to three years and with minimum fine of five thousand rupees.

18. Court competent to try offences under this Act and take cognizance of offences:

1. No court other than the court of a Metropolitan Magistrate shall take cognizance of, and try an offence under this Act.

2. No court shall take cognizance of any offence under this Act except on a complaint in writing of the Supervisory Authority or any Officer authorised by it, in writing, in this behalf.

3. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), offences under this Act shall be non-cognizable and bailable.

19. Power to Delegate:

The Government may, by notification in the official Gazette, direct that any power exercisable by it under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be specified therein.

20. Protection of Action taken in good faith:

No suit, prosecution, or other legal proceedings shall lie against any officer, Supervisory Authority or Government for anything which is in good faith done or intended to be done in pursuance of this Act.

21. Power to make rules:

1. The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

2. In particular, and without prejudice to the generally of the foregoing power, such rules may provide for all or any of the following matters, namely:-

   (a) prescription of date and form of application and the fee required to be paid for registration of semen banks;

   (b) prescription of form of certificate of registration;

   (c) prescription of tests in respect of donors / recipients;

   (d) any other matter in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Government necessary.

3. Any rule made by the Government shall be subject to previous publication thereof in the official Gazette.

4. Every rule made under this Act shall be laid as soon as may be after it is made before the House of the Legislative Assembly and if the House agrees in making any modifications in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill provides that every application for registration or renewal of registration shall be made on such date and in such form and shall be accompanied by such fees as may be prescribed by rules.

Clause 5 of the Bill provides for framing of rules and prescription of the form for the grant of the certificate of registration, and prescribing tests of the donor/recipient.

Clause 19 of the Bill confers on the Government the power to delegate any power exercisable by it under this Act to other Officer. The Supervisory Authority in Clauses 9 and 18 is empowered to authorise any Officer to inspect semen banks and hospitals or to institute complaint for the purpose of launching prosecution proceedings in court against the offenders.

Clause 21 of the Bill empowers the Government to make rules to carry out the purposes of the proposed legislation.

These are matters of detail necessary for effective administration of the provisions of the Act and it is difficult to provide for all situations in the Act itself. The Delegation of legislative power is, therefore of a normal character.

STATEMENT OF OBJECTS AND REASONS

Every couple wish to have a baby but many of them are not blessed with the bless of parenthood because of inherent deficiency in both or one of them. Artificial insemination is one of the modern methods to overcome this problem. The method of artificial insemination cannot be learned as absolutely free from danger of contacting HIV because over the last decades there has been alarming increase in the number of HIV seropositive individuals in our country. Though enormous activity has been directed to find its source and treatment, no suitable drug or vaccine is available till date. Further, there have been press reports about possible spread of HIV infection from artificial insemination in Delhi. The possibility of artificial insemination without the prior consent of the donor or recipient has his/her spouse by the medical practitioner or without conducting HIV 1 and 2 test or by segregating XX or XY chromosomes or maintenance of secrecy about the identity of donor / recipient, etc., cannot be ruled out. In particular, the purposes of the proposed legislation are -

(a) to allow the issueless couples to have a child through artificial insemination and give it a legal status;

(b) to control spread of HIV 1 and 2 through artificial insemination;

(c) to regulate the donation, sale or supply of human semen/ ovum for artificial insemination;

(d) to make it obligatory on the part of medical practitioners;

  (i) not to indulge in unscrupulous activity of segregating the XX or XY chromosomes,

  (ii) not to disclose the identity of the donor/ recipient of semen,

  (iii) to keep complete record of the donor/ recipient to avoid disputes relating to succession as far as possible, likely to arise due to artificial insemination.

(e) to prohibit to carry on semen bank without registration;

(f) to provide for testing of donors before allowing to donate.

The Bill seeks to achieve the aforesaid objectives.

(Dr. HARSHVARDHAN)
Ministry of Medical
Public Health & Family Welfare

THE DELHI ARTIFICIAL INSEMINATION (HUMAN) ACT, 1995

FINANCIAL MEMORANDUM

For implementing various provisions of this Act, intensive inspection of the Hospitals/Nursing Homes or Clinics, etc. engaged in artificial insemination in Delhi, both at the time of their registration and thereafter will be essential. Similarly, for registration or cancellation thereof or for taking of the cases for prosecution of the violators of the provision(s) of this Act, lot of correspondence will have to be done.

For meeting such requirements, following man powers will be essential -

Sl. No.	Name of the Post	No. of Post	Pay Scale Involved	Annual Expenditure (Rs. in lacs)
1.	C.M.O	1	3700-5000	1.08
2.	U.D.C	1	1200-2010	0.36
3.	L.D.C.	2	950-1500	0.33
4.	Messenger	1	750-940	0.26
5.	Driver	1	950-1500	0.33
	Total			2.36

Further, for field inspection one Maruti Gypsy costing around Rs.2.50 lacs is needed. Furniture for the above mentioned four official/officers will also be needed.

The Head wise details of expenditure are given hereunder :-

	Rs. in lacs
1. Salary of the Staff	.36
2. Field Inspection Vehicle	2.50
3. Furniture - Almirah (1), Rack (2)	0.25
4. Maintenance of the Vehicle, POL, etc.	1.00
5. Typewriter (English)	0.10
6. Office stationery, forms for application for Registration, etc.	0.50
Total	6.71 or 7.00 lacs

In subsequent year, expenditure on salary, maintenance and POL of vehicle and office expenses will remain same.

Annexure 6

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ABOUT THE CENTRE FOR CHILD AND THE LAW

The Centre for Child and the Law was established in 1996 at the National Law School of India University, Bangalore, which is a premier law university in India. The Centre is supported by the National Foundation for India, New Delhi, UNICEF (India) and CRY - Child Relief & You. It is designed to develop, organise, monitor and co-ordinate activities to bring justice to the child.

The specific areas of work at the Centre include Rights of the Child, Legal Regime and the Child, Juvenile Justice, Child Labour, Problems of the Girl Child, Compulsory Primary Education and Adoption. The programmes and activities taken up at the Centre are: **Research:** including action research and legal research; **Training:** including continuing education, workshops, seminars and consultations; **Documentation:** specialised database and library on children's issues; **Consultancy:** related to legal procedures, drafting petitions and legal aid; **Curriculum Development:** including development of teaching material on child and the law; **Networking and Advocacy:** with the Government and Non-Governmental Organisations on children's issues; **Law and Policy Reform:** on various matters related to children and their rights.